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TAIWAN LEGISLATION

GOVERNMENT

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HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

FEBRUARY 7 AND 8, 1979

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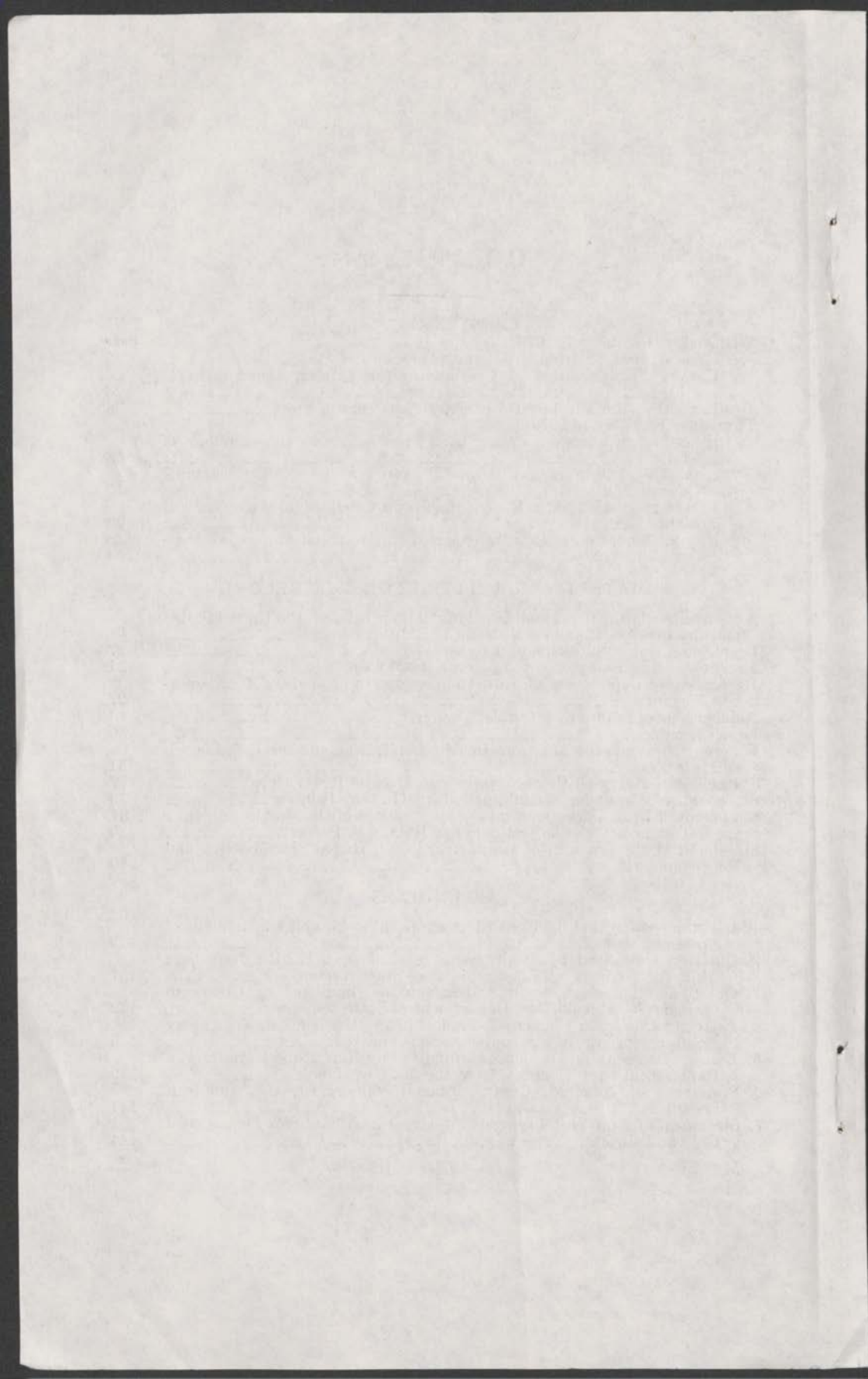
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TAIWAN LEGISLATION

WEDNESDAY, FEBRUARY 7, 1979

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C.

The committee met at 2:10 p.m. in room 2172, Rayburn House Office Building, Hon. Clement J. Zablocki (chairman) presiding.

Chairman ZABLOCKI. The committee will please come to order.

This afternoon the committee begins hearings on the President's request for legislation to maintain commercial, cultural, and other relations with Taiwan. The President has asked that this legislation be enacted as promptly as possible in view of his decision, which took effect January 1, to recognize the People's Republic of China as the sole legal Government of China and to drop such recognition of the Government of the Republic of China on Taiwan. Embassies in Peking and Washington are to be established March 1.

Presenting the administration's request to us today is Hon. Warren Christopher, Deputy Secretary of State. He is accompanied by Herbert J. Hansell, State Department Legal Adviser; John M. Thomas, Assistant Secretary for Administration; and Harvey Feldman, Special Coordinator for Taiwan.

Welcome to the Foreign Affairs Committee, gentlemen. There are some other schedules which members will have to meet later this afternoon. It is the Chair's intention, if members do not finish all questions today, which they may wish to ask of the witnesses, to respectfully ask the administration representatives to return tomorrow to finish up.

Additionally, without objection, members may submit questions for the record, which we will ask the executive branch to answer.

Also we have public witnesses tomorrow. Notices of that hearing were previously sent to members' offices. Looking ahead, the Chair understands that certain subcommittees also intend to hold hearings on matters related to the Taiwan issue. The subcommittees will have another week in which to complete such hearings as they desire.

COMMITTEE MARKUP SCHEDULE

It is then the Chair's intention to schedule a markup on Taiwan legislation for Friday, February 16, so that we may move forward expeditiously and comply with the requests of the President.

Mr. Secretary—

Mr. SOLARZ. Will you yield on that question, Mr. Chairman? You said you were planning to schedule a markup for the full committee on February 16?

Chairman ZABLOCKI. That is correct. It is a target date.

Mr. SOLARZ. Do you anticipate the subcommittees which have jurisdiction over this question will be marking up the legislation first or will we begin to mark up de novo in the full committee?

Chairman ZABLOCKI. As has been the procedure in the past, the subcommittees which so desire will make recommendations to the full committee as we mark up the bill in the full committee.

Mr. SOLARZ. So we would have, with respect to the foreign aid bill, a committee print which would list the basic legislation and then in italics or boldface the subcommittee recommendations for inclusions and deletions?

Chairman ZABLOCKI. If there are any such amendments and deletions, including additional language, they would be in a committee print, either in boldface or on the margin, and the subcommittee chairman making recommendations on behalf of the subcommittee would be recognized to support and speak to the amendment proposed.

Mr. SOLARZ. I want to assure you, Mr. Chairman, at this moment I have no amendments to offer.

Chairman ZABLOCKI. Mr. Secretary, you have a prepared statement. You may summarize it or read it if you wish and we can put the full statement in the record, whichever way you want. You may proceed, Mr. Secretary.

STATEMENT OF HON. WARREN CHRISTOPHER, DEPUTY SECRETARY OF STATE

Mr. CHRISTOPHER. Mr. Chairman and ladies and gentlemen of the committee, this is my first opportunity to appear before your committee in the new year, in the new session, and with your new name. And I simply want to express my pleasure in being here and want to assure you and the ranking minority member, Mr. Broomfield, and all the members of the committee of my pledge that we will cooperate with each and every one of you in the course of the new session of Congress. I may not always be able to satisfy you but I want to assure you all that I will do my best.

As you indicate, Mr. Chairman, I am appearing here today to speak for the administration in support of H.R. 1614, which provides the framework for maintaining commercial, cultural, and other relations with the people on Taiwan on an unofficial basis.

I have a relatively short statement which I would like to put before the committee orally, Mr. Chairman.

NORMALIZATION OF RELATIONS

Normalization of relations with the People's Republic of China is obviously a matter of great importance to the United States. In taking that step of normalization, we have followed the example of our NATO allies and more than 100 other countries who had previously recognized the People's Republic of China.

As last week's visit by Vice Premier Teng Hsiao-p'ing so vividly demonstrated, the normalization and improvement of relations be-

tween our two countries holds great potential for the long-term benefit of the United States and China and the peoples of the world as a whole.

To put it briefly, full and normal relations will allow us to work more effectively toward a stable system of independent nations in Asia. It will permit us to encourage an outward-looking China to play a constructive role in the world generally. And it will enable American business to deal on an equal footing with other suppliers as China moves toward modernization.

CONTINUED RELATIONS WITH TAIWAN

President Carter's administration has consistently maintained that normalization must be carried out in ways which do not jeopardize the well-being of the people on Taiwan. Toward that end, the President has repeatedly affirmed our commitment to maintain commercial, cultural, and other relations with the people on Taiwan on an unofficial basis. To carry out that commitment, we have taken already the following steps:

First, we have moved to assure that, with the exception of the Mutual Defense Treaty and related agreements, our many treaties and other agreements with Taiwan—more than 55 in number—will remain in force. When I went to Taiwan in December, I was instructed to seek confirmation from the Taiwan authorities that they, too, would regard all existing agreements as continuing in force after January 1, 1979. The Taiwan authorities did provide such confirmation.

Second, the President issued a memorandum just before the end of the year, on December 30, directing all departments and agencies to continue their current programs and other relations with Taiwan on an unofficial basis. The purpose of the memorandum was to insure that our relations with the people on Taiwan will continue pending the enactment or consideration of legislation before this committee.

Third, on January 16 the American Institute in Taiwan was incorporated as a nonprofit District of Columbia corporation. The Institute, which is governed by three trustees appointed by the Secretary of State, is the unofficial body through which we will conduct our relations with the people on Taiwan.

As set forth in its articles of incorporation, the basic purpose of the Institute is to enable the American people and the people on Taiwan to maintain commercial, cultural, or other relations without official Government representation or diplomatic relations.

And, fourth, the President has transmitted to the Congress the bill now before you. This bill has three fundamental purposes:

It will confirm the continued eligibility of the people on Taiwan for participation in programs and activities that, under U.S. law, are to be carried out with foreign governments;

It will provide for the carrying out of such programs and activities on an unofficial basis through the American Institute in Taiwan and the corresponding instrumentality to be established by the people on Taiwan; and

It will enable funding, staffing, and administrative relationships of the Institute.

SECURITY OF TAIWAN

Before getting into the details of the bill, I want to comment on the future security of Taiwan and its 17 million people, because I know how important this issue is to the members of this committee, just as it is equally important to us.

In normalizing relations with the People's Republic of China, we have not by any means abandoned our role as a Pacific power or our interest in the peace and security of Taiwan. Indeed a peaceful resolution of the Taiwan issue is a fundamental part of the structure of normalization.

During the negotiations that preceded President Carter's December 15 announcement, we impressed upon the People's Republic of China our interest in the peaceful resolution of the Taiwan issue and our expectation that this issue will be settled peacefully by the Chinese themselves. It is significant that, as part of normalization, the People's Republic of China agreed not to contradict our position on this central point.

In addition, as I am sure the committee is well aware, Vice Premier Teng has made a number of statements since normalization, including statements made to Members of the Congress, which clearly indicate a strong desire by the People's Republic of China to settle the Taiwan issue peacefully.

In addition, as a practical matter any effort by the People's Republic of China to resolve the Taiwan issue by other than peaceful means would be inconsistent with its evident desire to have better relations with the United States and our allies and friends. China has established an ambitious program of industrial modernization and economic growth. The success of this program depends on good relations with the United States and other industrialized nations that both recognize the People's Republic of China and maintain commercial relations with the people on Taiwan.

A decision by China to use force against Taiwan would, in effect, be a decision to renounce good relations with these nations and hence to abandon the program of modernization and growth. We think such a sharp reversal of policy would appear to be highly unlikely.

Finally, the fact is that Taiwan is strong militarily, and we will continue to sell Taiwan selected defensive weapons, as we have done in the past. By contrast, the People's Republic of China does not have the military capability to invade Taiwan and has not attempted to acquire that capability.

The Secretary of Defense has testified and perhaps will be appearing before this committee about the security of Taiwan from a military standpoint. I will only note that he has indicated the improbability of an attack across 100 miles of water against strong forces and well-prepared defensive positions as well as the military problems that China faces from other quarters.

H.R. 1614

Let me now, before entertaining your questions, comment on the important aspects in the bill. The bill has three titles. Title I, in its first three sections, provides that our laws and regulations will con-

tinue to apply to the people on Taiwan as they have in the past. Thus, section 101 preserves Taiwan's eligibility to participate in any U.S. program for which recognition or diplomatic relations is otherwise required.

Section 102 provides that such terms as "foreign country," "nation," and "state" as used in U.S. legislation will include the people on Taiwan.

And section 103 authorizes the executive branch to carry out, with respect to the people on Taiwan, programs and other regulations which are authorized or required under U.S. law to be carried out with respect to foreign countries.

Taken together, sections 101, 102, and 103 provide for continuation of our programs with the people on Taiwan under U.S. law notwithstanding the normalization of our relations with the People's Republic of China.

Sections 104, 105, and 106, if I can summarize, provide for our use of the American Institute in Taiwan to conduct relations with the people on Taiwan. These sections permit important relationships to continue on an unofficial basis. Let me take a moment to describe what this will mean in practice.

Basically the American Institute in Taiwan will carry out the functions in the commercial, cultural, and other areas previously performed by our Embassy in Taipei. For example, as the Embassy has done, the American Institute in Taiwan will perform the normal range of services for American businessmen in Taiwan, such as providing data and responding to inquiries about economic conditions and investment opportunities.

In addition the Institute will process applications for visas and passports, just as the Embassy has done. The actual issuance of passports will be done by consular officers in nearby posts, such as our Consulate General in Hong Kong. The technicalities of this are quite susceptible of being worked out and we are far along on that process now.

On the other hand, visas for Americans wishing to travel to Taiwan will be issued through the instrumentality which we hope and expect Taiwan to create here.

As for trade, to the extent that trade agreements, such as orderly marketing arrangements, are deemed desirable, they would be entered into between the American Institute in Taiwan and its Taiwan counterpart. Taiwan will continue to enjoy most-favored-nation treatment and there is every reason to believe that trade between the United States and Taiwan will continue to flourish, just as it has flourished between Taiwan and other countries, like Japan and Australia, who have gone through the same process that the United States is now going through.

As another example, I would note that the Arms Export Control Act authorizes the President to sell arms to foreign countries and requires certain undertakings from the purchasing government, such as a promise to provide funds for timely payment of contractors.

The American Institute in Taiwan will make sales under the Arms Export Control Act to its counterpart instrumentality created by the people on Taiwan and will be able to accept undertakings from that instrumentality which will satisfy the statute.

In sum, the picture I want to give you is one of relations continuing without interruption but on an unofficial basis through nongovernment-

tal means. It must be said, of course, that it takes two parties to conduct a relationship. It will not be possible for us to maintain relations unless Taiwan agrees to establish an unofficial instrumentality with which the American Institute in Taiwan may deal.

Should Taiwan choose not to create such an instrumentality, then the picture I have painted becomes very unclear indeed and the prospect of a hiatus in our relations as of March 1 becomes real. But I want to emphasize to the committee and tell you that we are in regular conversation with the authorities on Taiwan who are present here in Washington, D.C., and I hope that we are working toward a mutual understanding of the kind of instrumentalities that need to be created on both sides.

Turning back to title I of the legislation, I would note that under section 107, when U.S. law requires that foreign law be considered, the law applied by the people on Taiwan will be considered foreign law.

Title II of the bill permits Government agencies to provide support for the Institute. It thus enables the Institute to make maximum use of existing U.S. Government resources rather than establish costly and duplicative independent procedures.

Title II also provides for equitable treatment for those who interrupt their Government careers to accept temporary employment with the Institute. It permits Federal employees who leave Government service for employment at the Institute to continue to participate in Federal employee benefit programs and to be able to return to Federal service at a later date without damage to their careers.

Coming to the conclusion of my opening statement, title III of the bill authorizes the appropriation of funds for the Institute. This will permit the consolidation of the Institute's costs into a single budget account, which will facilitate executive branch and congressional oversight. For the current fiscal year, we intend to finance a contract with the Institute by reprogramming funds appropriated to the Department of State and other agencies.

Thus on behalf of the administration I commend this legislation to you and urge its prompt consideration and enactment. I am pleased and grateful to hear that you are on an expedited schedule with respect to this legislation. If you do so, Congress will insure that the substance of the many important relations with the people on Taiwan will be preserved and that our relations will prosper and flourish.

Thank you, Mr. Chairman. I would be glad to try to answer any questions from you or your colleagues.

[Mr. Christopher's prepared statement follows:]

PREPARED STATEMENT OF DEPUTY SECRETARY OF STATE WARREN CHRISTOPHER

I am pleased to appear before this committee today to speak for the administration, in support of H.R. 1614, which provides the framework for maintaining commercial, cultural, and other relations with the people on Taiwan on an unofficial basis.

Normalization of relations with the People's Republic of China is obviously a matter of great importance to the United States. In taking that step, we have followed the example of our NATO Allies and more than 100 other countries who had previously recognized the People's Republic of China. As last week's visit by Vice Premier Teng Hsiao-p'ing vividly demonstrated, the normalization and improvement of relations between our two countries holds great potential for the long-term benefit of the United States and China, and the peoples of the world.

Full and normal relations will allow us to work more effectively toward a stable system of independent nations in Asia. It will permit us to encourage an outward-looking China to play a constructive role in the world generally. And it will enable American business to deal on an equal footing with other suppliers as China moves toward modernization.

This administration has consistently maintained that normalization must be carried out in ways which do not jeopardize the well-being of the people on Taiwan. Toward that end, the President has repeatedly affirmed our commitment to maintain commercial, cultural and other relations with the people on Taiwan on an unofficial basis. To implement that commitment, we have taken the following steps:

First, we have moved to assure that with the exception of the Mutual Defense Treaty and related agreements, our many treaties and other agreements with Taiwan—more than 55 in all—will remain in force. When I went to Taiwan in December, I was instructed to seek confirmation from the Taiwan authorities that they too would regard all existing agreements as continuing in force after January 1, 1979. The Taiwan authorities did provide such confirmation.

Second, the President issued a memorandum on December 30 directing all departments and agencies to continue their current programs and other relations with Taiwan on an unofficial basis. The purpose of the memorandum was to ensure that our relations with the people on Taiwan will continue pending the enactment of legislation.

Third, on January 16 the American Institute in Taiwan was incorporated as a non-profit District of Columbia corporation. The Institute, which is governed by three trustees appointed by the Secretary of State, is the unofficial body through which we will conduct relations with the people on Taiwan. As set forth in its Articles of Incorporation, the basic purpose of the Institute is to enable the American people and the people on Taiwan to maintain commercial, cultural, or other relations without official government representation or diplomatic relations.

And fourth, the President has transmitted to Congress the bill now before you. This bill has three fundamental purposes:

It will confirm the continued eligibility of the people on Taiwan for participation in programs and activities that, under United States law, are to be carried out with foreign governments;

It will provide for the carrying out of such programs and activities on an unofficial basis through the American Institute in Taiwan and the corresponding instrumentality to be established by the people on Taiwan; and

It will establish funding, staffing and administrative relationships of the Institute.

Before getting into the details of the bill, I want to comment on the future security of Taiwan and its 17 million people. I know how important this issue is to the members of this Committee. It is equally important to us.

In normalizing relations with the People's Republic of China, we have not by any means abandoned our role as a Pacific power, or our interest in the peace and security of Taiwan. Indeed, a peaceful resolution of the Taiwan issue is a fundamental part of the structure of normalization.

During the negotiations that preceded President Carter's December 15 announcement, we impressed upon the People's Republic of China our interest in the peaceful resolution of the Taiwan issue and our expectation that this issue will be settled peacefully by the Chinese themselves. It is significant that as part of normalization, the People's Republic of China agreed not to contradict our position on this central point.

In addition, Vice Premier Teng has made a number of statements since normalization, including statements made to members of the Congress, which clearly indicate a desire by the People's Republic of China to settle the Taiwan issue peacefully.

In addition, any effort by the People's Republic of China to resolve the Taiwan issue by other than peaceful means would be inconsistent with its evident desire to have better relations with the U.S. and our Allies and friends. China has established an ambitious program of industrial modernization and economic growth. The success of this program depends on good relations with the United States and other industrialized nations that both recognize the People's Republic of China and maintain commercial relations with the people on Taiwan. A decision by China to use force against Taiwan would in effect be a decision to renounce good relations with these nations and hence to abandon the program

of modernization and growth. Such a sharp reversal of policy would appear to be highly unlikely.

Finally, the fact is that Taiwan is strong militarily, and we will continue to sell Taiwan selected, defensive weapons, as we have done in the past. By contrast, the People's Republic of China does not have the military capability to invade Taiwan and has not attempted to acquire that capability. The Secretary of Defense will testify before this Committee about the security of Taiwan from a military standpoint. I shall therefore only note the improbability of an attack across a hundred miles of water against strong forces and well-prepared defensive positions, as well as the military problems that China faces from other quarters.

Let me now comment on the Bill in greater detail.

The Bill has three titles. Title I, in its first three sections, provides that our laws and regulations will continue to apply to the people on Taiwan as they have in the past. Thus, Section 101 preserves Taiwan's eligibility to participate in any U.S. program for which recognition or diplomatic relations is otherwise required. Section 102 provides that such terms as "foreign country," "nation," "state," as used in U.S. legislation, will include the people on Taiwan. And Section 103 authorizes the Executive Branch to carry out with respect to the people on Taiwan programs and other relations which are authorized or required under U.S. law to be carried out with respect to foreign countries.

Thus, taken together, Sections 101, 102, and 103 provide for continuation of our programs with the people on Taiwan under U.S. law, notwithstanding the normalization of relations with the People's Republic of China.

Section 104 provides for our use of the American Institute in Taiwan to conduct relations with the people on Taiwan. Section 105 provides that whenever the United States Government is authorized or required to enter into an agreement relative to the people on Taiwan, the agreement may be entered into by the Institute. Similarly, Section 106 provides that actions by an instrumentality established by the people on Taiwan will satisfy U.S. legal requirements for actions by a foreign country.

These sections permit important relationships to continue on an unofficial basis. Let me take a moment to describe what this will mean in practice. Basically, the American Institute in Taiwan will carry out the functions in the commercial, cultural and other areas previously performed by our Embassy in Taipei. For example, as the Embassy has done, the American Institute in Taiwan will perform the normal range of services for American businessmen in Taiwan, such as providing data and responding to inquiries concerning economic conditions and investment opportunities. In addition, the Institute will process applications for visas and passports, just as the Embassy has done. (The actual issuance of visas will be done by Consular Officers in nearby posts, such as our Consulate General in Hong Kong. We are working out the technicalities. Visas for Americans wishing to travel to Taiwan will have to be issued through the instrumentality to be created by Taiwan.)

As for trade, to the extent that trade agreements, such as orderly marketing arrangements, are deemed desirable, they would be entered into between the American Institute in Taiwan and its Taiwan counterpart. Taiwan will continue to enjoy most-favored-nation treatment and there is every reason to believe that trade between the U.S. and Taiwan will continue to flourish.

As another example, I would note that the Arms Export Control Act authorizes the President to sell arms to foreign countries and requires certain undertakings from the purchasing government, such as a promise to provide funds for timely payment of contractors. The American Institute in Taiwan will make sales under the Arms Export Control Act to its counterpart instrumentality created by the people on Taiwan, and will accept undertakings from that instrumentality which will satisfy the statute.

In sum, the picture I want to give you is one of relations continuing without interruption, but on an unofficial basis through non-governmental means. It must be said, of course, that it takes two parties to conduct a relationship. It will not be possible for us to maintain relations unless Taiwan agrees to establish an unofficial instrumentality with which the American Institute in Taiwan may deal. Should Taiwan choose not to create such an instrumentality, then the picture I have painted becomes very unclear indeed, and the prospect of a hiatus in our relations as of March 1 becomes real.

Turning back to Title I of the legislation, I would note that under Section 107, when U.S. law requires that foreign law be considered, the law applied by the

people of Taiwan will be considered foreign law. This clarification will be important, for example, in determining the validity of marriages and divorces, the distribution of decedents' estates, and similar matters. It is also important for public law purposes such as the application of trade laws.

Title II of the bill permits government agencies to provide support for the Institute. It thus enables the Institute to make maximum use of existing U.S. Government resources rather than establish costly and duplicative independent capabilities.

Title II also provides equitable treatment for those who interrupt their government careers to accept temporary employment with the Institute. It permits federal employees who leave government service for employment at the Institute to continue to participate in federal employee benefit programs and to return to federal service at a later date without damage to their careers.

Finally, Title II provides that the Institute will be tax-exempt and that the salaries and allowances paid to employees of the Institute will be taxed in the same way as comparable payments the government makes to its own employees.

Title III of the bill authorizes the appropriation of funds for the Institute. This will permit the consolidation of the Institute's costs into a single budget account, which will facilitate Executive Branch and Congressional oversight. For the current fiscal year, we intend to finance a contract with the Institute by reprogramming funds appropriated to the Department of State and other agencies.

On behalf of the Administration, I commend this legislation to you and urge its prompt enactment. The Congress will thereby ensure that the substance of our many important relations with the people on Taiwan will be preserved, and that these relations will prosper.

I would be happy to answer any questions you may have.

Chairman ZABLOCKI. Thank you, Mr. Secretary. I had stated that, in complying with the President's request, we will deal with the legislation expeditiously. But I probably should say we will also make haste slowly. And we intend to give the full consideration in our deliberations on this matter as is the custom of this committee.

PRESIDENT'S EXECUTIVE ORDER

I will ask you, as my first question—and, of course, I have many first questions—about your statement on page 3 referring to the President's memorandum of December 30 directing all departments and agencies to continue their current program. Why is legislation necessary to deal with Taiwan's legal status? What does the proposed legislation do that the President's memorandum of December 30, 1978, does not do? Does it just bring into Congress the mess that the President started?

Mr. CHRISTOPHER. Well, Mr. Chairman, the President took action on December 30 to avoid any hiatus in the relations between the people on Taiwan and the people of the United States. The action he took, I think, has a firm basis in our constitutional and statutory law as an interim or transitional matter.

But the best legal advice I have is that we will be on much sounder ground when Congress enacts statutes carrying out what the President has provided for in his memorandum. I don't want to cast any doubt upon the validity of the memorandum, which, I think, is entirely valid, but I think it is important to have confirmatory action by Congress on this important development.

Chairman ZABLOCKI. You mean therefore that the President's memorandum of December 30 is a temporary matter? Actually you are now looking for a foundation for what has been constructed and you are trying to legitimize and legalize what the President did on December 30?

Mr. CHRISTOPHER. Mr. Chairman, I think that in part is a valid statement. If we went through it paragraph by paragraph, there are some aspects of it which could continue without congressional action. For example, the President is probably fully able to continue certain agreements in effect without any congressional action.

On the other hand, there are some matters in which congressional action is crucial. Certainly the long-term budgetary and funding is a matter in which the action of the House is absolutely crucial. But, in an overall sense, I think this relationship is of such importance that for our Nation the President has chosen the right course by submitting an omnibus bill so that the Congress can consider the matter and work its will and so we will have the benefit of your wisdom as well.

EFFECTIVE DATE OF BILL

Chairman ZABLOCKI. What is the necessity of section 304 of the proposed legislation? This section says that the President's actions with respect to Taiwan since January 1 are, quote, "approved and confirmed." Is this a political statement of approval of the President's decision to derecognize Taiwan and terminate the treaty?

Why should one say "since January 1"? Does that omit anything the President did on this matter on January 1? What would the consequences be if section 304 were stricken and not included in the bill?

Mr. CHRISTOPHER. Mr. Chairman, that is a very interesting and valid question and one that I asked, myself. That section was included at the recommendation of the Department of Justice, who wanted to be certain that any action taken with respect to programs in the intervening period would not be open to contest.

In other words, the Department of Justice and the Government as a whole wants to avoid legal disputes over the eligibility of the people on Taiwan for programs during this period between January 1, 1979, and the present time. It is modeled on earlier statutes of a comparable character.

And I would want to assure the committee that the section has no relation to, for example, the notice of termination of the Mutual Defense Treaty, which was done, as I recall, on the 23d of December.

In a sense, Mr. Chairman—I may be using too broad a brush here—in a sense, what this section says is that this bill will take effect as of January 1, 1979, and will make valid any of the programs which have been carried on since then between the people on Taiwan and the people of the United States.

Chairman ZABLOCKI. Since it was the President's decision, if the Congress decides to delete this section there won't be any real harm done, will there?

Mr. CHRISTOPHER. Well, no, I wouldn't be able to say so glibly that that would be true. There may be programs that have been entered into between the people of Taiwan and the people of the United States during that interim period—for example, the continued delivery of arms that are in the pipeline or new programs in the field of trade or perhaps new loans—that might possibly be placed under a legal cloud without the enactment of this section.

Now, there may be other ways to put it that would be more reassuring to you, such as the effective date of the bill would be January 1, 1979. What we are trying to do is avoid a hiatus in those existing relations between January 1 and now.

Chairman ZABLOCKI. This hiatus you are concerned about could have been absolutely avoided if Congress would have been consulted earlier or consulted at all. Congressman Wolff.

AGREEMENTS WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. WOLFF. Thank you, Mr. Chairman. Mr. Secretary, section 304 does trouble me, and I wonder whether or not this section includes any agreements made prior to this time but carried out after this time, after this January 1 date. In other words, I think that we in the Subcommittee on Asian and Pacific Affairs would like to know if there have been any agreements that have been made prior to this time that the Congress is not aware of, either by this administration or prior administrations, leading to normalization, that are now to be carried out subsequent to this date of January 1, 1979.

Mr. CHRISTOPHER. Congressman Wolff, I know of no agreements relating to normalization which are not public and which would come within the scope of your comments. There is no intention in connection with this section 304 to accomplish any purpose other than the validation of normal relations between January 1 and the time that the bill is enacted.

Mr. WOLFF. Well, obviously there were some things that were discussed prior to January 1, 1979, that are being carried out now as the result of those agreements that were made prior to that date.

Mr. Chairman, let me ask unanimous consent that the Department be requested to furnish to the committee any and all agreements that have been made, informally or formally, with the People's Republic of China prior to the date of this agreement that would have an effect upon any actions taken later on.

Chairman ZABLOCKI. Without objection, it is so ordered. And the chairman of the Subcommittee on Asian and Pacific Affairs desires to have it for his subcommittee's consideration?

Mr. WOLFF. For the consideration of the subcommittee first and then to be brought before the full committee.

Mr. CHRISTOPHER. We would be glad to work with Congressman Wolff to make sure we understand exactly what he wants and to supply it.

[The information, subsequently submitted, follows:]

AGREEMENTS RELATING TO NORMALIZATION OF RELATIONS BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA

Arrangements relating to normalization of relations between the United States and the People's Republic of China are embodied in the Joint Communiqué of December 15, 1978 and the separate U.S. and PRC statements which accompanied it. Copies of these statements are attached. There are no secret agreements between the United States and the People's Republic of China. As has been stated, the United States will continue to deliver military equipment to Taiwan under previous commitments but will refrain from making new commitments in 1979. After this transitional year, at the end of which the Mutual Defense Treaty with Taiwan will expire, we will resume our previous policy of selling carefully selected defensive weapons to Taiwan.

JOINT COMMUNIQUE ON THE ESTABLISHMENT OF DIPLOMATIC RELATIONS BETWEEN
THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA, JANU-
ARY 1, 1979

The United States of America and the People's Republic of China have agreed to recognize each other and to establish diplomatic relations as of January 1, 1979.

The United States of America recognizes the Government of the People's Republic of China as the sole legal Government of China. Within this context, the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan.

The United States of America and the People's Republic of China reaffirm the principles agreed on by the two sides in the Shanghai Communique and emphasize once again that:

Both wish to reduce the danger of international military conflict.

Neither should seek hegemony in the Asia-Pacific region or in any other region of the world and each is opposed to efforts by any other country or group of countries to establish such hegemony.

Neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states.

The Government of the United States of America acknowledges the Chinese position that there is but one China and Taiwan is part of China.

Both believe that normalization of Sino-American relations is not only in the interest of the Chinese and American peoples but also contributes to the cause of peace in Asia and the world.

The United States of America and the People's Republic of China will exchange Ambassadors and establish Embassies on March 1, 1979.

U.S. STATEMENT

As of January 1, 1979, the United States of America recognizes the People's Republic of China as the sole legal government of China. On the same date, the People's Republic of China accords similar recognition to the United States of America. The United States thereby establishes diplomatic relations with the People's Republic of China.

On that same date, January 1, 1979, the United States of America will notify Taiwan that it is terminating diplomatic relations and that the Mutual Defense Treaty between the U.S. and the Republic of China is being terminated in accordance with the provisions of the Treaty. The United States also states that it will be withdrawing its remaining military personnel from Taiwan within four months.

In the future, the American people and the people of Taiwan will maintain commercial, cultural, and other relations without official government representation and without diplomatic relations.

The Administration will seek adjustments to our laws and regulations to permit the maintenance of commercial, cultural, and other non-governmental relationships in the new circumstances that will exist after normalization.

The United States is confident that the people of Taiwan face a peaceful and prosperous future. The United States continues to have an interest in the peaceful resolution of the Taiwan issue and expects that the Taiwan issue will be settled peacefully by the Chinese themselves.

The United States believes that the establishment of diplomatic relations with the People's Republic will contribute to the welfare of the American people, to the stability of Asia where the United States has major security and economic interest, and to the peace of the entire world.

STATEMENT OF THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA,
JANUARY 1, 1979

As of January 1, 1979, the People's Republic of China and the United States of America recognize each other and establish diplomatic relations, thereby ending the prolonged abnormal relationship between them. This is a historic event in Sino-U.S. relations.

As is known to all, the Government of the People's Republic of China is the sole legal government of China and Taiwan is a part of China. The question of Taiwan was the crucial issue obstructing the normalization of relations between China and the United States. It has now been resolved between the two countries

in the spirit of the Shanghai Communiqué and through their joint efforts, thus enabling the normalization of relations so ardently desired by the people of the two countries. As for the way of bringing Taiwan back to the embrace of the motherland and reunifying the country, it is entirely China's internal affair.

At the invitation of the U.S. Government, Teng Hsiao-p'ing, Vice Premier of the State Council of the People's Republic of China, will pay an official visit to the United States in January 1979, with a view to further promoting the friendship between the two peoples and good relations between the two countries.

Mr. WOLFF. Thank you.

DEFINITION OF "THE PEOPLE ON TAIWAN"

Mr. WOLFF. I wonder if you can define for me "the people of Taiwan."

Mr. CHRISTOPHER. Well, "the people of Taiwan"—

Mr. WOLFF. "The people on Taiwan."

Mr. CHRISTOPHER. The people on Taiwan are all the people who live on Taiwan as well as those on the Pescadores.

Mr. WOLFF. I understand the literal translation but you used this term as the party with whom agreements are to be made. I am a little confused because in a variety of areas in your testimony you talk about "the people of Taiwan" and then you talk about "the people on Taiwan" and you talk about "Taiwan authorities." With whom will the 55 treaties be in force—all of the people on Taiwan?

Mr. CHRISTOPHER. Congressman Wolff, I don't make any particular distinction between "the people on Taiwan" or the "authorities on Taiwan." The 55 agreements will be carried out with respect to all the people on Taiwan and they will be carried out through the instrumentality that is set up by the people on Taiwan as a counterpart to the instrumentality which has been set up by the United States.

THE AMERICAN INSTITUTE IN TAIWAN

Mr. WOLFF. They will be carried on by this institute, which is unofficial? It is a legal body representing the United States?

Mr. CHRISTOPHER. The instrumentality that we have chosen is called an institute, which is a corporation set up under the laws—

Mr. WOLFF. Is this the official representative of the United States?

Mr. CHRISTOPHER. It is not the official representative of the United States.

Mr. WOLFF. Well, then, who is the official representative of the United States?

Mr. CHRISTOPHER. Well, the United States does not have an official representative in this sense. The treaties and agreements are carried out through this unofficial instrumentality.

Mr. WOLFF. But an unofficial instrumentality acting as agent for the United States?

Mr. CHRISTOPHER. The unofficial instrumentality has been defined in the President's memorandum and defined pursuant to the statute as that—

Mr. WOLFF. Would you explain it a little for us, because it is funded by the United States, is it not?

Mr. CHRISTOPHER. Yes.

Mr. WOLFF. And it has to be funded by the Congress?

Mr. CHRISTOPHER. We hope it will be funded by the Congress.

Mr. WOLFF. Is it not a Government corporation, then?

Mr. CHRISTOPHER. No; it is a private corporation chartered under the laws of the District of Columbia. I suppose—

Mr. WOLFF. Is there any precedent for this or is this a unique instrumentality?

Mr. CHRISTOPHER. Well, there is no doubt, Congressman Wolff, that this has many unique qualities about it. There are a number of other quasi-governmental corporations which are close to this. COMSAT in its early days had some similarities to this. We looked at a number of different models, but the closest models are the instrumentalities set up by other governments to carry on a comparable function.

LIAISON OFFICE IN THE PEOPLE'S REPUBLIC OF CHINA

Mr. WOLFF. Would you say this instrumentality is going to be doing the same thing as our present liaison office in the People's Republic of China?

Mr. CHRISTOPHER. In terms of function, it may have many of the same functions as the liaison office but I would want to distinguish sharply between this and the liaison office. The liaison office was, itself, a unique entity and it was set up as a transition to full diplomatic recognition.

Here we are trying to set up an instrumentality which will enable us to carry on commercial and cultural relations with a people with whom we have important commercial and cultural relations and do it in a way that will not interfere with our normal relations with the People's Republic of China. It has worked with other countries and, I think, will work smoothly here in a practical, functional sense.

Chairman ZABLOCKI. Mr. Broomfield.

TIMING OF NORMALIZATION

Mr. BROOMFIELD. Thank you, Mr. Chairman. I want to welcome you, Mr. Secretary. I want to compliment the administration in selecting you to come up here to represent them. There are few people in the State Department for whom I have higher respect.

I am not sure I completely agree with how this has all been handled, frankly. I understand the pluses and minuses of this very historic move on the part of the President. However, I must admit I was somewhat surprised that, despite the legislation that was passed last year calling for consultation with Congress, my information was only a couple of hours of notification before the President went on television.

That being set aside, the administration has made this move of normalization. I think we have got to now move on to the next step. What really troubles me is: What did we gain by moving as quickly as the President did in this regard? With the administration attempting to finalize SALT II in December, why did it suddenly decide to normalize relations with the People's Republic of China at that time?

I am just wondering—I don't want to give you the impression that I don't appreciate the normalization, because I do understand it—but I am wondering what effect this will have on the SALT II negotiations.

Mr. CHRISTOPHER. Congressman Broomfield, if I could respond to really two parts of your question, first I take it you are asking: Why did we do it when we did it?

Mr. BROOMFIELD. Right.

Mr. CHRISTOPHER. And this is a fair question. And I think the answer is a simple one but it has rather profound undergirdings. The simple reason is: We did it because the People's Republic of China accepted the basis on which we had proposed it. And when they were ready to do that, we felt there was no basis for any further delay.

Now, there were three fundamental things that we had been asking for that fell into place in those days between the 13th and 15th of December. First, the President had insisted that we terminate the Mutual Defense Treaty in accordance with its terms rather than abrogating it. The People's Republic of China had long been pressing us to abrogate it and end it immediately. They conceded on that point during this period.

Second, we had been pressing for their willingness not to contradict our statement that we felt that the issue regarding Taiwan should be settled peacefully. And it was in this period that they finally indicated a willingness that we could make such a statement and they would not contradict it.

And third, and perhaps most important of all, we had been pressing for the ability to make sales of defensive armaments to Taiwan in the postnormalization period after the Mutual Defense Treaty would have expired. This was a very contentious issue and it was only on the 14th of December that our position on that was finally recognized by the People's Republic of China.

When they came into concurrence on those three issues and the positions that had been put forward by Ambassador Woodcock were accepted, we felt when that was done we ought to move forward because, in effect, our conditions for normalization had been met.

That is the simple story of why it was done at that time and not some other time.

SALT

Now, on the second part of your question, with respect to SALT, we have a continuing confidence that a SALT agreement can be entered into during the very near future. We are continuing to make progress on that subject. And we do not feel that the events of the last 2 months with respect to the People's Republic of China will prevent the conclusion of a SALT agreement in the very near future, I hope in the first quarter of 1979.

HUMAN RIGHTS POLICY AND THE PEOPLE'S REPUBLIC OF CHINA

Mr. BROOMFIELD. Mr. Secretary, how would you respond to a constituent when he asks you to explain the administration's human rights policy? I frankly find it very difficult. And I just wonder how you would respond to that in view of the normalization.

Mr. CHRISTOPHER. With respect to the human rights situation in China. I would have to say that my own evaluation is that there is room for substantial improvement. But I think one of the hopeful

signs is that the People's Republic of China themselves have recognized that there is room for improvement.

I think that improvements are made in human rights when we have an opportunity to have a dialog with a country. One of the great barriers to improvement in the human rights field is when we don't have any communication, as we failed to have communication for such a long period with Cambodia.

So I welcome normalization as an opportunity to have a dialog with China about their human rights problems. Secretary Vance raised that problem when he was in China, but what we lack is a regular basis to talk with them about human rights.

So I would say to a constituent I believe that normalization gives us the opportunity to have the kind of private, diplomatic exchange that is most useful in achieving human rights improvements.

Mr. BROOMFIELD. Thank you. I would like to call to your attention that we have in the audience a former member of our committee, Senator Robert Taft; Bob Taft. Bob, nice to see you.

Chairman ZABLOCKI. Mr. Solarz.

HOUSE JOINT RESOLUTION 167

Mr. SOLARZ. Thank you, Mr. Chairman. Mr. Secretary, is there anything in the Kennedy, Cranston, Wolff, Solarz, and so forth, resolution which, in your judgment, is in any way incompatible with normalization?

Mr. CHRISTOPHER. Congressman Solarz, let me say, as I have said before, I doubt very much the necessity of any such resolution. I know that is not the question you asked me but I wanted to indicate that. That is not a purely academic comment on my part.

It seems to me that the security of Taiwan does not appear to be in jeopardy and that the People's Republic of China very well knows our concern about a peaceful resolution of that issue. I think they would be very foolhardy to fail to recognize our interest in a peaceful resolution of the issue.

One of the reasons I bothered to make that comment about the lack of necessity of such a resolution is because of the great difficulty and delicacy of framing such a resolution. I think you are in an area where we have to be very careful on several sides of the issue.

First, it is important that we not take any steps that are incompatible or inconsistent with the normalization. But at the same time, given the history of the last two decades, it is also very important that we don't enact a resolution which would tie the hands of a subsequent administration or give a basis for action beyond that which the Congress might regard as desirable.

Mr. SOLARZ. I understand all of that, Mr. Secretary, but is there anything in the precise language of that resolution which I asked about which, in your judgment, is incompatible with normalization?

Mr. CHRISTOPHER. I would look forward to working with you and the committee on such a resolution if the committee desires to have such a resolution. I want to be as forthright as I can and say I do not think there is anything basically incompatible with normalization in the text of the Wolff, Solarz resolution as I now read it, but I want

to reserve both my own opportunity to talk with you about it as well as, of course, the President's decision.

BLOCKADE OF TAIWAN

Mr. SOLARZ. I appreciate that response. When I was in Taiwan a few years ago, Admiral Snyder, who was then in charge of our military mission, told me that he was not so much concerned about the possibility of invasion across the straits as he was about the possibility of a blockade of Taiwan by the People's Republic of China at some point in the future.

Assuming that at some point in the future the People's Republic of China did attempt a blockade of Taiwan, what would our legal position be with respect to our right to contest that blockade by sending shipping into Taiwan? Would we consider that an infringement of freedom of the seas or, as the result of normalization, would we be obligated to take the position that this was an internal matter and therefore, as a purely legal point of view, Peking was within its rights to take the position that it was not going to permit foreign shipping to enter Taiwan harbors?

Mr. CHRISTOPHER. First, I think that is an unlikely event to happen. I don't see it as an action the People's Republic of China would regard in their self-interest and I would be very surprised if they did it. I do not, though, to answer your specific question, regard that as something that would be settled by normalization. We have had no opportunity to take a position with respect to it.

If there was such a blockade, I think the first thing we would do would be to consult with the important and relevant committees of Congress and to try to take action which we regarded as appropriate in the circumstances. I would regard such a blockade as a very serious step to be taken by the People's Republic of China.

Mr. SOLARZ. I think all of us would so consider it, Mr. Secretary. What I am trying to drive at is whether, from a legal point of view, it would be our position that such a blockade would constitute an illegal infringement of freedom of the seas? Can we get a legal judgment on that from the Department if you don't have one already for the record?

Mr. CHRISTOPHER. Yes; I would be glad to furnish a further judgment with respect to that. As I say, I think it is unrealistic and it would be a serious event, and I will furnish a further answer if there is some law-of-the-seas answer that is more compelling.

Mr. SOLARZ. I think that would be helpful.

[The information, subsequently submitted, follows:]

LEGAL JUDGMENT ON BLOCKADE OF TAIWAN

The US-PRC Joint Communiqué of December 15, 1978 provides that "the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan." An essential element of these relations is the ability of the people on Taiwan and the United States and other countries to exercise high seas freedoms and navigational and other rights guaranteeing free and full access to and from Taiwan for these and other purposes. A PRC blockade to isolate Taiwan and disrupt its trade would constitute an infringement of these freedoms and rights, to which the U.S. and others adversely affected could respond appropriately.

NORMALIZATION POLICY: IMPACT ON U.S. COMMITMENTS TO ALLIES

Mr. SOLARZ. One of the major arguments which has been made against the normalization policy has been that it has somehow or other undermined the credibility of our commitments to our other allies around the world. I wonder if you can give the committee the benefit of your assessment of the extent to which that allegation is or is not accurate. What has been the reaction to the normalization policy by the other countries with whom we have mutual security treaties? Have any of them indicated they now have less confidence in our commitments as the result of normalization? Or have they more or less indicated that this has not impaired their confidence in the credibility of our obligations to them?

Mr. CHRISTOPHER. Congressman Solarz, the worldwide, virtually unanimous reaction has been to applaud our normalization of relations with the People's Republic of China. As I said, more than 100 nations have done so in advance of us. Our NATO allies have all done so.

It is very interesting to me that the countries of Asia, neighbors to Taiwan or the People's Republic of China, have applauded this action, extending all the way from Korea to Japan to our ANZUS partners and the ASEAN nations. So it seems to have approbation around the world.

BLOCKADE OF TAIWAN

My mind goes back to a previous question, as it sometimes does. I think I ought to say—and maybe it is too obvious to bother to put in the record—that we do not regard the waters between Taiwan and China as being inland waters. They are international waters and anything done in those waters would be subject to the rules of international shipping. And therefore, although I may want to supplement on that, I would regard this as an improper action taken in international waters.

Chairman ZABLOCKI. The Chair wishes to note that we have one Democratic member who has been here since the meeting started and three Republicans remaining to be called. Under the rules adopted at our organizational meeting, I will now alternate for the remainder of the first round.

Mr. Lagomarsino.

ARMS SALES TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. LAGOMARSINO. Thank you.

Mr. Secretary, without in any way denigrating my respect for you and the fact that you are one of my constituents, I must say that while I can make a long speech about this situation let me say, in my opinion, there are only two things wrong with what has occurred with respect to Taiwan: First, what was done; and second, how it was done. That is all, but that covers a lot.

I understand that you say that the military situation is such that the People's Republic of China could not at this time successfully attack or invade the island of Taiwan. Is that our position?

Mr. CHRISTOPHER. Yes; that is the judgment of Secretary Brown and the Defense Department.

Mr. LAGOMARSINO. Is it true at the present time we are either in the position of encouraging or at least not discouraging the sale of modern arms to the People's Republic of China from some of our Western European allies?

Mr. CHRISTOPHER. Our position on that, Congressman Lagomarsino, is that the United States does not intend to and will not sell arms to the People's Republic of China. With respect to our European allies, we regard that as an issue for each of them to face on their own. They ought to make that judgment on the basis of the interest as they perceive it.

Mr. LAGOMARSINO. Might not that change the picture should it occur?

Mr. CHRISTOPHER. It certainly could over time. As a matter of logic I would have to say that it could, but there is no evidence that the People's Republic of China is trying to build up the kind of capacity that would enable them to launch an attack against the island of Taiwan.

RECOGNITION OF PEOPLE'S REPUBLIC OF CHINA BY OTHER COUNTRIES

Mr. LAGOMARSINO. Now, one of the reasons that is given in your statement and that has been given by other administration spokesmen in the past for concluding the agreement that we did is that well over 100 other nations have done the same thing, is that right?

Mr. CHRISTOPHER. Yes.

Mr. LAGOMARSINO. But isn't it true many of those nations were relying on the fact we had a defense treaty with the Taiwan Government?

Mr. CHRISTOPHER. I really don't know what motivated each of them. I am sure that countries such as Japan and Canada and Australia did it because they perceived it to be in their self-interest to have normal relations with the most populous nation on Earth. And my supposition would have to be that that motivated our NATO allies as well. But the reasons underlying a decision of any country to normalize relations with China would have to be somewhat beyond my capacity.

CONSULTATION WITH CONGRESS

Mr. LAGOMARSINO. I don't remember if you answered the question Mr. Broomfield asked about why Congress was not consulted prior to the announcement of the normalization. He asked several questions, as I recall, but I don't recall that you answered that one specifically.

Mr. CHRISTOPHER. If I recall correctly, he did not put that question. He certainly—

Mr. LAGOMARSINO. I will put it.

Mr. CHRISTOPHER [continuing]. Put it as an aside. Now, I gather, you are going to give me an opportunity to reply to that question. Well, the answer on that is: There have been extensive consultations between the administration and the Congress on the subject of the People's Republic of China during the entire 2 years that we have been in office. State Department officials, including Secretary Vance, have discussed the establishment of relations with the People's Republic of China and our problems with Taiwan with scores of Congressmen and scores of Senators ever since the beginning of the adminis-

tration. Seldom has there been testimony on general subjects that there have not been questions on this very matter.

I think all of the various issues involved here—maintenance of relations, termination of the Mutual Defense Treaty—were discussed in detail with members of this committee as well as members of other committees. So I would have to say, in my view, there were very extensive consultations over the last 2 years with members of this committee, with Members of the House of Representatives and Members of the Senate.

Mr. LAGOMARSINO. I was involved in one such meeting that perhaps you are referring to—that was with Mr. Holbrooke well over a year ago—and the way the meeting was left, at least in my understanding of it, was that the administration would get back to us if there was any further movement toward that goal, and that never happened.

I wonder if you might furnish for the record, if it is possible to get it, a statement of who was consulted and why and when.

Mr. CHRISTOPHER. Yes, I would be glad to give you a list of the consultations during 1977 and 1978.¹ I want to also say if I could, maybe on my time not yours, that those consultations were valuable to us in a number of respects. I think one thing we particularly learned from Congress was the high importance of our acting within the treaty and not abrogating the treaty, to act in accordance with the termination provisions of the treaty, as well as, and this is an equally important point, to take great care in being able to continue the commercial and cultural relations. Of course, that is one of the reasons we are here.

Mr. LAGOMARSINO. Was the chairman of this committee and the ranking member consulted prior to the announcement?

Mr. CHRISTOPHER. They were consulted in the terms I have outlined here today, and that is the continuing discussion with them about the importance of our normalizing relations with the People's Republic of China. I cannot say that they were consulted during the month of December.

Chairman ZABLOCKI. The members, however, were available and in Washington in December. The consultation, since the gentleman asked whether I was consulted, the last I remember with Secretary Vance he said: The issue is on a back burner. [Laughter.]

Mr. Mica.

EUROPEAN REACTION TO NORMALIZATION

Mr. MICA. Mr. Secretary, first, let me say I am a new member of this committee and I am truly honored to be here and have the opportunity to discuss and ask some questions with you as I have.

I am at a loss really as to how to approach this because I find a conflict in what I hear in testimony before us and what I heard in the past week.

For instance, one of the first comments I have a question about is the fact you indicated to Mr. Solarz that there seems to be unanimous worldwide support for our action in Taiwan. This committee just last week had the opportunity of hosting members of the European Parlia-

¹ A list of all consultations is on file in the committee office.

ment and it was near unanimous that this action had brought great disgust in Europe and further pointed out the distrust for the American people.

The comment was made to me: Taiwan did nothing to incur your disfavor and you have discarded it.

I heard this through the week we had the individuals from Europe with us. And I just wanted to bring this to the attention of the committee.

Also, I would like to know, if you would provide for my assistance your opinion that you are reserving on Mr. Solarz, Mr. Wolff and many of us who cosponsored that resolution, if indeed it will create a problem with normalization? You said you would reserve judgment and I hope you will notify us as soon as possible.

[The information subsequently submitted, follows:]

EXECUTIVE BRANCH VIEWS ON HOUSE JOINT RESOLUTION 167

The Administration believes that normalization of relations with the People's Republic of China has enhanced the prospects for peaceful settlement of the Taiwan issue. Since normalization, Chinese leaders have adopted a moderate and conciliatory approach to the Taiwan issue, consistent with their stated desire for peaceful settlement. Other factors that make the use of force unlikely include military and geographic realities; the desire of the Chinese government for closer and more cooperative relations with the United States, Japan and the rest of the world; and our intention to continue selling defensive weapons to Taiwan.

If, nevertheless, the Congress believes that further reassurance is necessary, the Administration would not oppose adoption of a resolution along these lines. We do not see in H.J. Res. 167 anything which is basically inconsistent with our agreements with China on the establishment of diplomatic relations.

AGREEMENTS WITH THE PRC

Mr. MICA. Third, you indicated that there were discussions or possibly written agreements that the People's Republic of China would not contradict our comments on peaceful resolution of that Taiwan issue. I would like to have, if it is possible, any written agreements or any memos that would refer to that particular part of the discussions.

Mr. CHRISTOPHER. I wonder if I can comment on that before we get too far away from it. What I had said or meant to say was that in the course of last fall, Ambassador Woodcock put forward to the People's Republic of China our negotiating position stating the conditions on which we would be prepared to normalize relations.

One of the bases of that negotiating position was that we wanted to be able to make a statement that we expected the Taiwan issue would be resolved peacefully. And we expected to be able to make that statement without having the People's Republic of China contradict it. That was finally agreed to in discussions between the 13th and 15th of December. That is what I was referring to. I simply wanted to make that clear.

Mr. MICA. Was there a written response to this initiative?

Mr. CHRISTOPHER. Well, this was the negotiation of a diplomatic character that took place between Ambassador Woodcock in Peking and his counterpart there.

NAME OF INSTRUMENTALITY

Mr. MICA. Let's move on to another area. I personally feel we are playing a game here. As adults we know what is happening here. As a society we know we are just going by the back door what we used to do in the front door. With this in mind, may I ask this. Would the administration object to a name change in this legislation? It appears to be a game and appears to be very symbolic, so maybe the name ought to be symbolic.

Mr. CHRISTOPHER. Well, without accepting your characterization of what we are involved in here, there is no magic about the name of the instrumentality created by the people on Taiwan. We would be glad to consider with their representatives, who we are meeting with on a regular basis, an appropriate name for their instrumentality. What is important to us is that their instrumentality have a name which does not connote an official character. It is essential from the standpoint of our relations with the People's Republic of China and the basis on which normalization was undertaken, that the instrumentalities be unofficial.

So, both in English and in Chinese the name chosen by the people on Taiwan must have an unofficial character. But it need not be the same as the name we have given to our institute. And we are quite willing to talk to them about a name that might be more satisfactory to them.

PROPERTY OWNERSHIP

Mr. MICA. Just as an aside, is there any objection to using the actual embassy building we now have?

Mr. CHRISTOPHER. Well, that is quite a different subject I would be glad to comment on. That relates to the question of the property of the Taiwan authorities. And one has to make some fairly narrow legal distinctions to talk about this. But since you raised it, I think I ought to try. The embassy property that was owned by the Government of China prior to 1949 is in legal contemplation the property of the People's Republic of China—

Mr. MICA. Are you saying that our embassy is now owned by the People's Republic of China?

Mr. CHRISTOPHER. I am saying that the embassy occupied by the authorities on Taiwan, which I believe was acquired by China before 1949, is in legal contemplation in our view the rightful property of the People's Republic of China. And we would take that position in litigation.

Now, I would want to sharply distinguish bank deposits or foreign exchange assets, which may have been the product of the work or the economic achievement of the people of Taiwan during the period after 1949.

And equally with respect to such assets, we would believe that they ought to be attributed to the people on Taiwan rather than the People's Republic of China. It may be that these issues will have to be determined in litigation, but when you asked about the embassy, it is the matter of the legal ownership of the property rather than some preference we have in the matter.

Mr. MICA. Thank you.

Mr. Chairman, if I may continue? I have additional questions I will submit, but I would like you to know that I, along with a number of the members of this committee, are concerned about the way we were notified and our chairman was notified. And I for one, even as a freshman member, would like to be direct with you and let you know that I don't intend to be here in a confirming position. I hope to be consulted and to work with you and the administration on matters that come before this committee or there will be a no vote in this chair.

Mr. CHRISTOPHER. I appreciate your being direct with me, Congressman. Let me say one more thing, and that is with respect to the former embassy. I think we would not regard it as appropriate, property matters aside, for that to become the repository of the unofficial entity.

Chairman ZABLOCKI. Mrs. Fenwick.

QUEMOY AND MATSU

Mrs. FENWICK. I noticed, Mr. Secretary, that you mentioned specifically Taiwan and the Pescadores. Now, how about Quemoy and Matsu?

Mr. CHRISTOPHER. Quemoy and Matsu is a complicated subject, Mrs. Fenwick. Under the Articles of the Mutual Defense Treaty between the United States and Taiwan, notice of termination of which has been given, Quemoy and Matsu are explicitly not included.

The U.S. obligations did not extend to Quemoy and Matsu. So the people on Taiwan was defined for purposes of the legislation as including only Taiwan and the Pescadores. But I have taken the position, and it is my hope, that some way can be found so that the commercial and cultural benefits of the legislation can be extended to the people on Quemoy and Matsu.

For example, if we had exchange programs or cultural programs—

Mrs. FENWICK. How many are there?

Mr. CHRISTOPHER. On Quemoy and Matsu? I really do not know. It is a small number.

STATEMENT OF HARVEY FELDMAN, SPECIAL COORDINATOR FOR TAIWAN, DEPARTMENT OF STATE

Mr. FELDMAN. About 60,000 on Quemoy. I am not sure about on Matsu.

Mrs. FENWICK. It seems to me—

Chairman ZABLOCKI. Could we have that answer again?

Mr. CHRISTOPHER. The estimate of one of my colleagues, who is skilled in Asian matters, is that there are about 60,000 people on Quemoy.

Chairman ZABLOCKI. How about on Matsu?

Mr. CHRISTOPHER. He does not know how many.

SAFEGUARDS FOR TAIWAN

Mrs. FENWICK. One of the things that has disturbed many people in the United States is that Vice Premier Teng Hsiao-p'ing was far more able to discuss the safeguards for the people of or on Taiwan—

and I can see the subtle difference between "of" or "on" Taiwan—than was our President.

The Vice Premier was able to say they would have a large degree of autonomy, that they would have their own armed forces, that he even encouraged investment by foreign nationals on the island. And it was not possible apparently for our President to make any such assurance.

Well, now, how come? If recognition was on the back burner, who took it off the back burner? Was this something that we were pressing on the Chinese, or was that what the Chinese were pressing on us?

Mr. CHRISTOPHER. I think you have asked at least two very good questions there.

First, how come Vice Premier Teng is able to give a more vivid description of life on Taiwan than President Carter was. Certainly Vice Premier Teng is a very colorful, eloquent figure. I do not think he said anything, though, that President Carter has not said. President Carter has indicated that we hoped that that economy would flourish on Taiwan and that we would have a flourishing trade with Taiwan. Indicating that we would continue to sell defensive arms to Taiwan, he obviously had in mind that it would maintain a strong defensive military posture.

So, I think that those were parallel descriptions. Perhaps the vividness of Vice Premier Teng's language caught your ear.

TIMING OF NORMALIZATION

On the other question as to how come it happened when it did, I simply would have to repeat what I said before; that is, that starting about the 10th of December and extending until the morning of the 14th, the People's Republic of China gave recognition to the points that we had put forward.

Mrs. FENWICK. When did you put them forward?

Mr. CHRISTOPHER. They were put forward by Ambassador Woodcock in a series of meetings that began in the fall and extended through November.

Mrs. FENWICK. In other words, is it fair to say our Ambassador, Mr. Woodcock, who seems to be extremely able, was putting forward proposals from the U.S. Government to China in September and October?

Mr. CHRISTOPHER. He was describing what the U.S. point of view was with respect to normalization, which I think was a more correct posture for an ambassador to be in. And in December, and I would have to say with a degree of rapidity that was a surprise to all of us, the Chinese responded. They had not responded sequentially; they responded to the overall presentation and then Vice Premier Teng came into the matter. He turned out to be a man who could make quick and forceful decisions. And the matter came to a head on the 13th and 14th of December.

Mrs. FENWICK. Would it not have been possible to wait until after the elections, which were due to take place December 23? Would it not have been wiser to know what the people of Taiwan thought of the Government with which they had been blessed since 1949, without any chance to say what they felt?

Mr. CHRISTOPHER. The President concluded that the wisest course was that, when the conditions for normalization had been met, we

should go ahead and normalize. He felt that there was no basis to hold back from normalization once those conditions had been met, and he went ahead.

Of course, the recognition of another country is characteristically an Executive act.

Mrs. FENWICK. Yes; that is true.

COST OF THE INSTITUTE

I think I have no more questions. Thank you. Oh, I just want to know what is going to be the estimated cost of that Institute. It says "such funds as may be required." Will they be larger than the cost of the Embassy in Taipei?

Mr. CHRISTOPHER. No; we think they will be comparable to the Embassy.

Mrs. FENWICK. I see. Thank you.

Chairman ZABLOCKI. Mr. Quayle.

TERMINATION OF MUTUAL DEFENSE TREATY

Mr. QUAYLE. Thank you, Mr. Chairman.

Mr. Christopher, is it not unusual to terminate a treaty without action by both Houses, rather than just one House or by unilateral action? Is it not an unusual procedure?

Mr. CHRISTOPHER. No; I think it is not unusual. In the first place, the treaty itself has a termination clause. Not all treaties contain such a termination clause, but article 10 expressly provided that the treaty could be terminated on a year's notice. There have been a number of other treaties that have been terminated by the Executive. Some have been terminated by joint action.

The legal adviser has prepared a memorandum on the subject, which we would be glad to furnish to you and to the committee, setting forth the prior examples. As you know, this matter is in litigation now. Senator Goldwater and others have filed an action claiming that the termination had to be a joint executive-legislative action. It is being heard in the U.S. district court here. We feel confident that the position the President took was the correct one. But since it is in litigation, I think I should call that to the committee's attention.

I would say we feel confident about the outcome of that litigation. But nevertheless, we must recognize that there must be another point of view as well, and that is the one advanced by Senator Goldwater.

Mr. QUAYLE. But the chances are if that litigation is kicked out of court, it will be on political grounds rather than constitutional grounds. What I am concerned about is the precedent. I think the numbers of treaties that have been terminated, unless my information is wrong, will show it does take and has in the past taken an action of Congress. The President has not acted unilaterally in the past as a rule, and this is an exception.

Mr. CHRISTOPHER. I do not suppose you determine legal rights by how many have been done jointly and how many have been done unilaterally. The correct legal position, in our view, supported by the legal adviser and the majority of international law and other scholars,

is that a treaty, particularly one that has an explicit termination clause, can be terminated by the action of the Executive.

Mr. QUAYLE. Do you think that the President has the authority to terminate the SALT Treaty unilaterally without consultation with Congress?

Mr. CHRISTOPHER. I would like to examine that treaty to see whether or not it has a termination clause and look at the legislative history of the treaty. Each treaty would stand on its own feet, but a treaty of this particular kind with an explicit termination clause, I feel confident in the legal judgment that the President had power to terminate it.

Mr. QUAYLE. OK. I don't want to get at what is right or wrong, but in looking at the precedent and looking at the numbers, would you not agree that usually, looking at the numbers—and not as to whether it is right or wrong or whether the President has the power—that usually the President has in the past gone to Congress on terminating treaties?

Mr. CHRISTOPHER. I will be glad to furnish this memorandum. Frankly, I do not have a boxscore on the subject, the formula as to what was done and in which situation. But I would emphasize that does not seem to me to control the right and wrong of the matter.

Mr. QUAYLE. I am not talking about right and wrong. I am talking about sheer numbers and past practices. On to another subject.

IMPORTANCE OF DATES

February 28 is an important date. Can you tell me what is going to happen on February 28?

Mr. CHRISTOPHER. Well, let me tell you what I hope will happen on February 28, and then I will tell you what I hope will not happen on February 28. What I hope is that well before February 28 the people on Taiwan will have established an unofficial instrumentality which will represent their interest in the United States: That they will have a headquarters in Taiwan and branches here in the United States in several of our cities. And I hope that that instrumentality will deal with our instrumentality and we will go on with normal commercial and cultural and other relationships. That is what I hope will happen.

What I hope will not happen is that the people on Taiwan will fail to create such an instrumentality; and having failed to create such an instrumentality our instrumentality will have nothing to deal with. And then there is the prospect of a hiatus in our relations, which could be a handicap to our trade and commercial relationships.

Mr. QUAYLE. So if they do not create this instrumentality by February 28, there could be some problems?

Mr. CHRISTOPHER. Yes; there could be some problems.

Mr. QUAYLE. What is so special about February 28? Why February 28? We have a year to terminate the treaty. What is this magic date?

Mr. CHRISTOPHER. I guess the magic date is really March 1. That is the date on which we will establish full diplomatic relations with the People's Republic of China. We will open an embassy there. An ambassador will be there. And they will establish an embassy and have an ambassador here. And after that time we would regard it as inappropriate for Taiwan to have official representation in this country.

The 2-month period of January and February is the transitional period. After the People's Republic of China has an embassy here and an ambassador, we would regard it as inappropriate for the Taiwan Government to be here in an official capacity.

Mr. QUAYLE. Has there been any consideration to delay the date?

Mr. CHRISTOPHER. No; those dates have been announced by the President and planning is going forward. And the People's Republic of China expect to be here and we expect to be there on that date.

Mr. QUAYLE. Thank you. I would ask unanimous consent to submit in writing some questions.

Chairman ZABLOCKI. Without objection, so ordered.

[The questions, and subsequent responses, follow:]

QUESTIONS ON THE FUTURE OF UNITED STATES-TAIWAN RELATIONS

1. What was the earliest date in 1978 on which contacts with the Chinese led the Administration to conclude or otherwise believe that agreement with Peking on the terms of normalization was within reach? Why did the Administration not consult with Congress at that point?

Answer. The first U.S. presentation to the Chinese in the round of negotiations leading to normalization was at the beginning of July 1978. Discussions continued over the next five months. The first significant sign of movement in the Chinese negotiating position was at a meeting between Ambassador Woodcock and Acting Foreign Minister Han Nienlung on December 5, 1978. It was not until the negotiating sessions of December 13-14 that it became clear an agreement would be reached.

All major issues, including the continuation of arms sales, the maintenance of commercial, cultural and other relations, and the likely termination of the Mutual Defense Treaty, were discussed in considerable detail with Members of Congress both before and during the negotiations with the Chinese in 1978. It was clear in these discussions that Members' views were being sought and would be taken into account in the formulation of U.S. policy. Members of Congress were not involved directly in the negotiation process; however, their views on key issues were sought and became an important part of the U.S. negotiating position.

2. What rights, privileges, or immunities of a diplomatic nature does the Administration intend to extend to ROC diplomatic or quasi-diplomatic representatives in the United States after March 1, 1979?

Answer. On February 15, 1979, the Taiwan authorities announced the establishment of a counterpart instrumentality to the American Institute in Taiwan called the Coordination Council for North American Affairs. With the creation of the American Institute in Taiwan and the Coordination Council for North American Affairs, the framework now exists for continuation of unofficial relations between the people of the U.S. and the people on Taiwan.

The American Institute in Taiwan and the Coordination Council for North American Affairs are private entities and diplomatic privileges and immunities would, therefore, be inappropriate. However, under the House bill, the Department of State contemplates that functional privileges and immunities would be granted, including exemption from customs duties and income taxes, immunity from legal process in actions relating to the performance of functions, secure communications (including use of couriers and pouch) and inviolability of premises.

3. If the United States and the Republic of China should fail to reach agreement on a new framework for relations before March 1, 1979, on what basis and through what instrumentality would relations be conducted? Specifically, if such agreement is not reached by that date, what will be the status of, and what if any action does the State Department contemplate regarding diplomatic personnel of the Republic of China now in this country?

Answer. As stated in the answer to Question 2 above, the U.S. and the Taiwan authorities have already agreed on a framework for continuation of unofficial relations after March 1 between the people of the United States and the people on Taiwan.

See answer to Question 2 above, concerning the status after March 1 of the personnel of the coordination Council for North American Affairs.

4. Has the State Department or any other U.S. government agency studied the economic impact which might result from the importation of PRC goods into this country, in light of the very low labor costs associated with those goods?

Answer. We believe that the opening of trade relations with the PRC will benefit the United States. We expect U.S. exports to the People's Republic of China to grow as well as imports from the PRC and we expect to benefit from both. As is the case with all other countries, we believe that U.S. industry is adequately protected by U.S. trade laws including Sections 201 to 203 of the Trade Act of 1974 which authorizes import relief for any U.S. industries seriously injured by increased imports. We are and will be discussing with the PRC a whole range of trade issues to assure that trade between our two countries develops to our mutual benefit. In this connection, we have just completed a preliminary round of discussions on restraining textile exports from the PRC.

5. If there is genuine concern with the rights of the Chinese on Taiwan, why does the Administration object to an American security guarantee for Taiwan?

Answer. Although the Administration does not believe a security guarantee is necessary, it does not oppose the language of the current House bill on this subject.

6. Does not the American rejection of government-to-government relations with Taiwan increase the long-range risk of military attack on that nation?

No.

7. The Administration has indicated that it intends to continue to sell Taiwan "defensive" arms on a "restrained" basis. Provide an authoritative definition/interpretation of the word "defensive" as used in this context. Would such "defensive" equipment include or exclude F-4 aircraft, harpoon missiles, and high-technology antisubmarine warfare equipment? Define also the word "restrained", as interpreted by the Administration in this context. Does that interpretation envisage any explicit or implicit limit on the volume, dollar value, or technological level of future weapons sales?

Answer. The policy of this Administration, as of previous Administrations, is to give the Taiwan authorities access to selective defensive weapons. Appropriate defensive weapons are those which meet a legitimate defense requirement without creating an unacceptable risk of destabilizing the situation in the area. For example, the Carter Administration-like the Nixon and Ford Administrations, has refused to sell the F-4 fighter-bomber of great range and weapons carrying capability. We, like the previous administrations, will not sell ground-to-ground long-range missiles. But we have agreed to sell jet interceptors, anti-aircraft missile systems, and anti-submarine warfare systems. In considering what is appropriate, we set no arbitrary limit on volume or dollar value of equipment to be supplied but do consider, as stated above, the effect of arms shipments on the stability of the region. Arms requests are also scrutinized on the basis of the President's international arms transfers policy which states, inter alia, that the United States will not be the first country to introduce new levels of technology or sophistication into a region. Human rights criteria also apply.

8. Does there exist any range limit, either explicit or implicit, on combat aircraft which the United States would agree to make available to Taiwan?

Answer. Range obviously is a factor in deciding on aircraft requests from Taiwan. For example, we turned down the F-4 in part because its range would provide it an offensive capability against the PRC.

9. What is the most capable aircraft now available to Taiwan? Is it an all-weather craft? Is it capable of pursuing an invading aircraft back to the mainland, engage in extended combat, and still have enough fuel to return home safely?

Answer. The most capable aircraft available to meet Taiwan's air defense requirements is the F-5E. The United States has made this aircraft available with improved weaponry, such as precision-guided munitions and Maverick missiles. This aircraft is comparable to any interceptor aircraft deployed against Taiwan by the PRC and is in consonance with the President's foreign arms sale policy. The F-5E is not an all-weather aircraft, but neither are any of the PRC aircraft deployed against Taiwan. It is primarily an air defense aircraft and would operate in the vicinity of Taiwan and in the Taiwan Straits.

10. How many and what types of missiles does the ROC now have? How long would these last in a heavy combat situation?

Answer. The authorities on Taiwan are responsible for Taiwan's air defense and develop their own estimates and requirements. In 1978 we approved Taiwan's requests for the sale of 600 Sidewinder missiles, 90 I-HAWK missiles and 500 Maverick missiles. Taiwan's destroyers are also being retrofitted with the SEA CHAPPARAL surface-to-air missile. These missiles and missile systems are intended to increase their air defense capabilities. We believe that Taiwan's air defense systems are adequate and the United States will continue to be responsive in meeting Taiwan's requests for additional defensive missiles.

In addition, Taiwan has purchased a number of surface-to-surface missiles from Israel for use on their navy ships and are producing a similar missile themselves.

11. How old are the major aircraft and naval vessels now owned by the ROC?

Answer. A number of Taiwan's F-100s and F-104s fighter aircraft are nearing their out-of-service date (within the next 2-5 years). Most of these aircraft are being replaced by the F-5E interceptor, which Taiwan began co-producing in 1973. Additional F-5E/Fs have been approved for sale in 1978 and will be used to replace Taiwan's remaining F-100s and F-104s.

The majority of Taiwan's naval vessels (destroyers) were built during WWII, but have been retrofitted with improved weapon systems to increase their defensive capabilities. For example, Taiwan has recently installed Israeli GABRIEL surface-to-surface missiles, United States SEA CHAPPARAL surface-to-air missile systems, and the ASROC anti-submarine rocket system, on some of its surface combatants. They have also begun a co-production program for missile patrol boats, which will be equipped with surface-to-surface missiles.

12. What are the ROC/PRC comparative production rates of aircraft?

Answer. Many of the PRC's aircraft are based on Soviet designs and technology of the early 1950's, even though they are produced in China. While the PRC has a much larger indigenous aircraft production capability than Taiwan, China's primary security concern is the threat posed by the Soviet forces along the Sino-Soviet border. In turn, the Soviet threat appears to be the primary factor in determining PRC aircraft requirements and production rates. Taiwan's production of F-5E aircraft is a result of a U.S.-Taiwan co-production program. The program calls for a total of 248 aircraft to be coproduced.

13. Administration witnesses have repeatedly stated that it is neither in the interest nor within the ability of the PRC to launch a military invasion of Taiwan. Does the Administration agree that in a longer time frame (of 5 or more years) this situation could change, either because of decreased PRC dependence on the U.S., internal political changes within the PRC, or an expansion of PRC military capability?

Answer. There are strong reasons for the PRC not to use force against Taiwan even in the longer term. The PRC has committed itself to a modernization program with ambitious long term objectives in agriculture, industry, and technology. China's leadership has made it clear that it hopes for a considerable influx of Western and Japanese capital in order to carry out this program. As the moderni-

zation program progresses, and as commercial and other connections with the West and Japan multiply, a disruption of its relations with those countries becomes increasingly costly to the PRC. The U.S., Japan, and other countries have extensive relations with Taiwan, and we have clearly stated our expectation that the PRC will not use force against it. For the PRC to launch an attack on Taiwan would jeopardize its relations with the industrialized world, seriously threaten its modernization program, and leave China extremely isolated against the Soviet Union.

China does not now have the capability to launch the type of amphibious operation that would be required to attack Taiwan, and we would have considerable lead time should they attempt to develop such a capability. As the President has pointed out, and the Chinese understand this, no future decisions are ruled out by U.S. normalization of relations with the PRC.

14. In the event of a PRC military threat against Taiwan, what steps will the U.S. government take? Will it make specific assurances that those steps will be taken? If not, why not?

Answer. In such an eventuality the Administration would consult with Congress concerning appropriate action to protect our interests in trade, investment, navigation, etc. However, we regard this as an extremely unlikely contingency. Peking does not have the military capability of seizing Taiwan by force and shows no signs of attempting to acquire that capability. Since normalization, it has dropped references to "liberation" and has emphasized peaceful "reunification". We are all aware of Vice Premier Teng's statements on this question, including the statement that China will not attempt to change Taiwan's society by force.

15. Does the Administration consider the Arab anti-boycott legislation applicable to any PRC boycott against Taiwan?

Answer. We have no reason to believe that the PRC would attempt such an action. There are U.S. companies that deal with both the PRC and Taiwan.

Under the Presidential Memorandum of December 30, 1978, the antiboycott laws of the United States continue to apply in regard to Taiwan. The Administration bill confirms their application.

16. What specific actions will the United States government take in the event of a Chinese naval and/or sea blockade of Taiwan? Will it make specific assurances that those actions will be taken? If not, why not?

Answer. The U.S.-PRC Joint Communique of December 15, 1978 provides that "the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan." An essential element of these relations is the ability of the people on Taiwan and the United States and other countries to exercise high seas freedoms and navigational and other rights guaranteeing free and full access to and from Taiwan for these and other purposes. A PRC blockade to isolate Taiwan and disrupt its trade would constitute an infringement of these freedoms and rights, to which the U.S. and others adversely affected could respond appropriately. We believe that the U.S. response if such an eventuality occurred would best be determined in the circumstances and that it would not be in the U.S. interest to attempt to specify such U.S. actions in advance.

17. The PRC has already begun to exert pressure on U.S. firms wishing to do business on the mainland to cease their operations on Taiwan. This is a trend which we can expect to accelerate in the future. What steps will the Administration take to aid U.S. businesses in resisting that pressure? Be specific and thorough in your answer.

Answer. See answer to Question 15.

18. Should the United States wish to directly support Taiwan, either militarily or economically, in the event of a PRC invasion, blockade, or embargo, what will be the U.S. position under international law, in the absence of government-to-government relations? In the absence of such relations, would not the U.S. be intervening in a domestic, internal conflict between the government in Peking and a rebellious province?

Answer. The U.S. considers that the absence of government-to-government relations between the U.S. and Taiwan will not preclude or prevent the U.S. from taking action it considers necessary to protect U.S. interests in regard to Taiwan.

19. The United States currently contracts with the ROC for the supply of nuclear fuel. What assurances are there that we will continue to honor this commitment without interruption? Has there been any suggestion to ROC officials that failure to agree with the Administration's proposal for a new framework for relations will result in an interruption of that fuel supply?

Answer. The U.S. has stated and Taiwan has agreed that agreements with Taiwan in the nuclear, as well as other areas, remain in force; we intend to continue to supply nuclear material and equipment to Taiwan's nuclear power program. The authorities on Taiwan have also announced the establishment of a counterpart instrumentality to the American Institute in Taiwan, called the Coordination Council for North American Affairs. With the creation of this Council and the Institute, the framework now exists for the continuation of unofficial relations between the people of the United States and the people on Taiwan.

20. Why was the ROC's information officer in the United States, I-Cheng Loh, ordered out of the United States in January?

Answer. On January 15, 1979, Charge d'Affaires S. K. Hu was asked to call at the Department. An article which Mr. Loh had written for publication in the New York Daily News and the Washington Star was called to his attention. Mr. Hu was asked what would be the reaction of his government were an official of the American Embassy in Taiwan to cause to be published on Taiwan articles calling on the people of Taiwan to protest President Chiang Ching-kuo's policies and to write members of the Legislative Yuan asking that they pass laws embodying such protests.

Chargé Hu agreed that such action amounted to interference in internal political affairs, and that his government would not countenance such actions by any foreign diplomat.

It was suggested to the Chargé that under the circumstances, it would be best for Mr. Loh to be reassigned, and Mr. Hu agreed. Some days thereafter, the Department was informed that Mr. Loh had been transferred to Taipei and would depart the United States on January 23, 1979. Mr. Loh is now Deputy Director of the Government Information Office in Taipei.

21. The national constitution of the People's Republic of China refers to the "liberation" of Taiwan. Vice-Premier Teng has lately begun referring instead to the "unification" of Taiwan. Which phrase does the State Department consider to be authoritative one? By specific as to one or the other.

Answer. Vice-Premier Deng Xiaoping has stated specifically that the PRC now refers to the "reunification" of Taiwan with the motherland and no longer refers to "liberation" of Taiwan. We therefore consider that phrase to be authoritative.

Chairman ZABLOCKI. The gentleman from New York, Mr. Rosenthal.

Mr. ROSENTHAL. I pass.

Chairman ZABLOCKI. Mr. Hamilton.

Mr. Hamilton is not here.

Mr. Bingham.

Mr. BINGHAM. Thank you, Mr. Chairman.

NATURE OF CONTINUING RELATIONS WITH TAIWAN

Mr. Secretary, as you know, I have differed with the administration and argued with you personally on a number of issues during the past 2 years. But I would just like to say that I think this very difficult problem has been handled just about as well as it could have been handled and I applaud the actions of the administration. We confront a most difficult and unusual situation here. We want to maintain relations with Taiwan, whether we call them official or not. And the curious thing is you have on the part of the Congress I think a great majority who are applauding the normalization with China, but are fussing about the accompanying conditions.

And it is there that I think really a remarkable achievement was had. I think that the mainland Chinese agreed to some remarkable conditions in acquiescing in the continuation of arms sales, trade, and so forth. However, this does lead us into a kind of Alice in Wonderland situation. We have to set up agencies that we say are not official, but

are going to carry out the duties that are normally carried out by official agencies. Is that not so?

Mr. CHRISTOPHER. The Government quite often contracts with private corporations to carry out matters for them. And frequently agreements are carried out between governments and private corporations. But I would have to agree with you, Congressman Bingham, that this is a unique situation that presents a number of Alice in Wonderland problems, to pick up your phrase.

Mr. BINGHAM. And it seems to me, at least that it is not helpful to us to probe into all the hypothetical aspects of this.

We may not want actually to specify the precise nature of all the relationships that exist because we have a difficult *modus vivendi*, if you want, for both Peking and for Taiwan. And it may not be helpful to spell out in every aspect all the legal connotations that might arise in the future. At least that is my view.

CONSULTATION WITH CONGRESS

I would like to say also that, speaking for myself, I do feel that I was consulted about the problem of normalization along with others. It is true that in the last stages there was no consultation as far as I was concerned, but I would like to say that I was consulted at the time when I think consultation was important: That is, when the Government's position was being developed.

Too often we complain because we are only told at the end of the process what the Government's position is. I think many of us were in the position of helping in the formulation of that position in this case.

Your summary of the main points of our position that were accepted rather suddenly by the Chinese in mid-December is excellent. The former Secretary, Dr. Kissinger, commented that we had, in effect, decided to accept what had been on the table; that the offer from the Chinese had been on the table for a couple of years since his time. Would you regard that as correct?

Mr. CHRISTOPHER. Congressman Bingham, I do not want to use this occasion to have my first public difference of opinion with Secretary Kissinger, but the three points that I listed were ones that fell into place in December to the best of my knowledge.

Mr. BINGHAM. That is all.

Chairman ZABLOCKI. Mr. Findley.

HOUSE JOINT RESOLUTION 167

Mr. FINDLEY. Mr. Secretary, some reference was made earlier to the resolution that several members have introduced, House Joint Resolution 167. Some of us were here when the Tonkin Gulf resolution was enacted. And we lived to regret voting for it. I will examine very carefully any statements of policy that might be construed broadly enough to be an authorization of use of military force by the President. Have you read this resolution? And, if so, would you say that it does not rule out the use of force to carry out the stated policy?

Mr. CHRISTOPHER. Congressman Findley, in referring to the Tonkin Gulf resolution and kindred problems, you have identified one of the very reasons why I earlier said—perhaps you were not in the room—

that I thought we were in a very difficult and delicate area unless a resolution is regarded as absolutely necessary, it is probably unwise.

Now, section 2 of House Joint Resolution 167 is carefully drafted to refer to the constitutional process; no doubt referring to the War Powers Act as well. But in its broadest connotation it could, if all the constitutional statutory processes were followed and the Executive were acting in proper concert with the Congress, the action taken under that heading would be of the broadest character. It does not rule out any kind of action.

Mr. FINDLEY. Including military action?

Mr. CHRISTOPHER. It does not rule out military action so long as all the constitutional and statutory provisions were followed.

Mr. FINDLEY. So it is a very important legislative proposal. Is the President desirous of getting a clarification of his authority to act in the defense of the territory of Taiwan?

Mr. CHRISTOPHER. Congressman Findley, the President's view is that such a resolution is unnecessary. He believes, as I said earlier, that the People's Republic of China is well aware of our views on the matter and the assurances we have been given by them, and the practical situation on the ground—or perhaps I should say in the water—is such as to make any threat quite remote. And he regards such a resolution as being unnecessary.

I have been attempting to be responsive to the committee by saying I would be glad to work with them if the committee determines such a resolution is necessary and also by indicating other views on it. But as far as the President's views, I want to be absolutely explicit that he does not regard such a resolution as being necessary. It is not anything that he is asking for.

Mr. FINDLEY. I personally have great interest in the welfare of the people of Taiwan. I support completely the President's decision to continue to sell arms to the people of Taiwan, and I hope that peace will prevail there. I am struck by similarities in article 5 of the Mutual Defense Treaty, which the President has given notice that he will abrogate in 1 year, and section 2 of the resolution just cited. Article 5 says:

Each party recognizes that an armed attack in the West Pacific area directed against the territories of either of the parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

In section 2 of the Kennedy-Wolff resolution it states:

The Congress finds and declares that it is the policy of the United States to act in accordance with constitutional processes and procedures established by law to meet any danger described under Section 1, that is, to any danger to the interests, the concerns and expectations of the United States in the peace, prosperity and welfare of Taiwan.

So there are striking similarities. And it would seem to me very strange that the administration, having set in motion the abrogation of this Mutual Defense Treaty, would, at the same time, seek to reestablish in the statute or even acquiesce to the replacement of the statute with language so similar.

Do you have a comment on that?

Mr. CHRISTOPHER. Mr. Finley, I would have to say that in my view the Mutual Defense Treaty goes well beyond the Wolff-Solarz-Kennedy-Cranston resolution. But I emphasize the administration is not seeking to add such a resolution to the legislation that is now pending before the committee.

Chairman ZABLOCKI. Mr. Bowen.

Mr. BOWEN. Thank you, Mr. Chairman.

PRC COMMITMENTS ON USE OF FORCE

Mr. Secretary, I think we probably all agree that there is a substantial difference between obtaining an agreement from the People's Republic of China that they will not contradict our position that we oppose the use of force and actually agreeing not to use force. Do you feel that the administration will now engage in a continuing effort to obtain somewhat stronger commitments from the People's Republic of China in this direction, or do you believe that the statements already made by the President and by Teng Hsiao-p'ing and others since the time of the normalization announcement represent, in effect, the last word on that subject?

Mr. CHRISTOPHER. Congressman, I do not think that we have heard the last word on that subject. Indeed, I have been very pleased by the comments that Vice Premier Teng made here in the United States. It is significant that the People's Republic of China dropped any reference to the word "liberation" with respect to Taiwan and talked rather about reunification. I thought the other statements that were made by Vice Premier Teng, both here in Washington and to congressional delegations in Peking, have been very reassuring as to the attitude of the People's Republic of China. And I hope there will be more of them.

Mr. BOWEN. Then, would it be fair to say that my assessment is accurate: that the administration will continue to seek stronger commitments from the People's Republic of China in this regard?

Mr. CHRISTOPHER. Well, we will continue to urge the People's Republic of China that if there is any action taken with respect to reunification, it be of a peaceful character. And we will encourage them in that direction.

Mr. BOWEN. Thank you very much, Mr. Secretary.

Chairman ZABLOCKI. Mr. Winn.

Mr. WINN. No questions.

Chairman ZABLOCKI. Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman.

TRADE RELATIONSHIPS WITH TAIWAN

Mr. Secretary, in your remarks with regard to the proposed legislation, the subject headings talk about the maintenance of commercial, cultural, and other relationships. Where in this legislation, H.R. 1614, do we build in any protection for preserving our trade relationships with Taiwan and preserving Taiwan's trade relationships with other nations? Is there some mechanism in the legislation that would afford that kind of protection?

Mr. CHRISTOPHER. I was pausing to be sure I understood the full impact of your question. It seems to me that sections 101, 102, 103,

and 104 are the crucially important sections which enable us to continue our trading relations with Taiwan: make Taiwan eligible for OPIC programs as far as appropriate under the statute, making Taiwan eligible for most-favored-nation treatment.

Now, that is the basic thrust of sections 102, 103, and 104. Those activities will be conducted by the American Institute in Taiwan, but it is title I of the statute that provides the statutory authority for so doing.

Mr. GILMAN. In the event that there was an interruption of trade in Taiwan by an embargo or by some other means, what would be our position?

Mr. CHRISTOPHER. Well, if you are speaking about an embargo or a blockade from the People's Republic of China—perhaps I am repeating myself and I do so with some apology—we think that a most unlikely event. The People's Republic of China has watched 100 other nations, including Japan, Australia, and Canada normalize relations with Taiwan and watched their trade increase, one, two, three, four, fivefold, without interfering in any way. Should there be such an interference, we would consult promptly with this committee and the other appropriate committees of Congress and regard it as a very serious event.

CLAIMS AND ASSETS

Mr. GILMAN. If the People's Republic of China is now the Government of China in our eyes, can someone whose assets are frozen in the People's Republic of China seek satisfaction in the courts of this country at the expense of the assets of the former Republic of China?

Mr. CHRISTOPHER. Well, the claims and assets area is a complicated one. Let me speak about it in a general way and hopefully in a somewhat illuminating way. The citizens of the United States have claims against the People's Republic of China that are approximately in the \$190 million range. They have been certified by the appropriate Commission.

On the other hand, there are frozen here in the United States assets of the People's Republic of China in the range of about \$80 million. Negotiations are now under way with respect to those reciprocal claims and assets to see if some basis cannot be worked out so that the citizens of the United States who have claims against the People's Republic of China, you know, are able to realize on those assets.

Secretary Blumenthal is going to China within the next month and he hopes to follow up on preliminary considerations that we had here on that subject. It could be the subject of litigation, but I hope that some overall arrangement can be worked out so that the people of this country will realize at least a substantial portion of their claims.

Mr. GILMAN. Have those claims been filed with the Commission we have created?

Mr. CHRISTOPHER. Those claims have been filed. The figure I used, which I think was \$196 million from memory, has been approved by that Commission.

Mr. GILMAN. What is the name of that Commission?

Mr. CHRISTOPHER. The Foreign Claims Settlement Commission.

**STATEMENT OF HERBERT J. HANSELL, LEGAL ADVISER,
DEPARTMENT OF STATE**

Mr. HANSELL. The Foreign Claims Settlement Commission.

TRADE WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. GILMAN. What are the present restrictions on trade with the People's Republic of China? Will it require legislation to remove such restrictions if there are any?

Mr. CHRISTOPHER. Yes, the People's Republic of China is a non-market country and would be subject to the restrictions of the Jackson-Vanik legislation, which requires—and I am speaking now without precision, but I hope accurately—which requires a Presidential finding with respect to emigration, coupled with assurances from the country, before a waiver could be granted, and before the People's Republic of China could be given most-favored-nation status. That matter is under intensive study within the administration in light of the new normalization of relations.

Mr. GILMAN. That would be by Executive action and not by legislative action; is that correct?

Mr. CHRISTOPHER. I think there is a question as to whether the conditions exist which would justify Executive action. There could also be, if it would be the will of the Congress, of course, legislative action.

Mr. GILMAN. Will Congress be consulted before those regulations are changed by the executive branch?

Mr. CHRISTOPHER. I am certain that there will be consultation. And the only reason that I pause is that I believe consultation is now going on to assess the attitudes of leading figures in Congress with respect to the applicability of that legislation to this new circumstance.

Mr. GILMAN. I would hope that consultation is better than the prior consultation.

Thank you, Mr. Secretary.

Chairman ZABLOCKI. Mr. Fithian.

Mr. FITHIAN. Thank you, Mr. Chairman.

IMPORTANCE OF DATES

We welcome you, Mr. Secretary, to the committee this afternoon. In response to the question by my colleague from Indiana, Mr. Quayle, he laid out with some specificity the importance of the February 28 date and the establishment of full diplomatic relations on March 1. Would you give us any guidance on the calendar that you see as most propitious, as most essential for this legislation?

Mr. CHRISTOPHER. Well, the sooner the better from our standpoint, but subject to the deliberateness and carefulness which I know mark this committee's work and the work of Congress. I would say that the March 1 date has great importance with respect to the creation of the instrumentality by Taiwan.

I would hope that Congress might set a similar target date for its action, although I would want to be candid that its action does not have the same importance in terms of that precise timing. But I would hope that before Congress gets caught up in the many other things that you

have to do this year, that this legislation could be on the books so we could regularize the relationship in the new setting.

Mr. FITHIAN. Well, tell me just exactly what will happen in that hiatus. When the Taiwan officials establish their instrumentality, which I think is your own phrase, and we have no such counterpart, how do we act on a day-to-day and week-to-week basis and continue to deal with them when our only official relations are with the People's Republic of China?

Mr. CHRISTOPHER. I think maybe I have not adequately communicated to you what the situation is and that must be my fault. We have already established the instrumentality on our side, which is called the American Institute in Taiwan. We have selected its directors and we are going about setting it up. And from our side we can, I think, manage the trading and cultural and other relations in this interim period until Congress acts on the statute that is now before you. So I do not think there will be any hiatus caused from our side because the President's Executive order and the setting up of the corporation does the job on our side. What we need now is a partner from the Taiwan side in order to keep the relationship alive.

Mr. FITHIAN. Does this even cover the arms sales and shipments that we would be able to do under what you have already established?

Mr. CHRISTOPHER. Well, the situation with respect to arms is that there are a number of arms in the pipeline; \$800 million of arms in the pipeline and they will continue to flow. But it is important that there will be an entity or instrumentality on Taiwan so that the modality can be worked out between the two instrumentalities.

I think that we will be in a much more difficult time if after March 1 they do not have a new instrumentality and we find ourselves in the situation of needing to send up new letters of offer.

"TWO-CHINA" POLICY

Mr. FITHIAN. Is it fair—perhaps you will not comment on this, but I would appreciate it if you could—is it not true that this unofficial but officially supported instrumentality we have been talking about and provided in this legislation is basically a face saving exercise to assist the People's Republic of China in avoiding controverting its two-decade-old policy of rejecting the two-Chinese policy the United States has taken for many, many years?

Mr. CHRISTOPHER. I think of it as a way to enable the United States to carry on its commercial and cultural relationships with the people on Taiwan. We have a tremendous volume of trade. They are one of our largest trading partners.

At the present time the balance of trade is in their favor, but it makes them no less important to us. So without derogating your term, I think it diminishes the situation unnecessarily to refer to it as face saving. I think it is a facilitating endeavor that will enable us to carry on important relationships commercially, culturally and otherwise with the people on Taiwan.

Mr. FITHIAN. Perhaps I was not clear. I was not speaking of face saving on our part or on the part of the Taiwanese. I was referring specifically to the 20-year policy on the part of the People's Republic

of China of rejecting the American proposition, which was the two-China policy for many, many years.

It seems to me that we, in return for Peking's acceptance of this as a face-saving way out of absolutely scuttling the policy which they pursued for two decades, that we have in return given up our official treaty with the Taiwanese, while we basically retain the unofficial right to continue doing what we have done in the past?

MR. CHRISTOPHER. Well, this situation has a number of different ways that one might look at it. One of the ironies is that the people on Taiwan have claimed and still claim rights to all of the People's Republic of China. And I think that all I can do is to repeat myself and say that the current situation is one which the People's Republic of China has recognized as a proper way to approach this problem not only with us but with many of our other principal allies. It seems to have worked well for them and I think it will work well for us.

Thank you, Mr. Secretary and Mr. Chairman.

Chairman ZABLOCKI. Mr. Goodling.

TIMING OF NORMALIZATION

MR. GOODLING. Thank you. I have been sitting here so long and have so many questions, perhaps I can ask some of the technical ones in the second go-round.

I am amused with both my colleagues and the administration in saying that the timing is such, and this came about simply because we got pretty much what we wanted, et cetera. It seems to me that while the Vice Premier was here several days he mentioned 100 times his tremendous fear of Russia and the need for us to help bring them (China) up to the 20th century. I do not understand what the pressing issue was that brought this about.

I realize we proposed change of fancy words like abrogate and terminate and we got things like that. And then we put so much emphasis on the Vice Premier, whose political history has been one of up and down, and not only that, but who knows whether he or someone else will be here tomorrow or next week as far as leading China is concerned.

My first question, I guess, then is in relationship to timing and it is: Does Mr. Rafshoon play any part in determining the timing of foreign policy statements or determinations, or does he play any role in determining foreign policy in the administration? Could you answer that, or would I have to ask you that this evening?

MR. CHRISTOPHER. To my knowledge, he does not.

REUNIFICATION

MR. GOODLING. Second, the State Department and the administration on occasion have talked about reunification. I think other than the timing and the notification business that upset me more than anything else. We seem to be now talking about reunification.

Do we have any kind of right to be talking about reunification in relationship to Taiwan and mainland China? And do we have Chamberlains involved in this whole deal? What right or what involvement should we have or should we have any?

Mr. CHRISTOPHER. Mr. Goodling, I am glad to have a chance to clarify my position or our position on that subject. We are neutral on the question of reunification. What we are not neutral about is how that unification shall come about if it does come about. What we have said and what we have stated is if there is to be reunification, it shall be by peaceful means. But we have been neutral on the question of whether there should be reunification.

Mr. GOODLING. If you were sitting on the mainland of China, would that not give you an indication we were not really that concerned, and we were not really going to do that much about it if they take off and reunite by force immediately? Would that not encourage them: Just the fact that we even mention the word "unification?"

Mr. CHRISTOPHER. Well, it is hard to put yourself in the position of another country and to know what their perceptions are. But if they have the perception that we do not care about the means in which they seek to reunify then they have a very bad misperception because we have a strong feeling that any reunification effort should be of a peaceful character and accomplished by the people of China in a peaceful way between themselves. And I would not want to leave any impression here in responding to your question, sir, that it is a matter of indifference to us. It is not.

MOST-FAVORED-NATION TREATMENT

Mr. GOODLING. You mentioned we would continue with most-favored-nation treatment of Taiwan. I do not quite understand that. On the one hand, we are talking about people not being a nation, and then we are saying they have most-favored-nation status or something. Could you clarify that? How do these people who do not have a nation, this country without a legal status, how do they have this most-favored-nation status?

Mr. CHRISTOPHER. That is really the purpose of title I of the legislation before you, which provides that when any law or regulation of the United States refers to a state or government, that that law or regulation shall apply to the people on Taiwan. That enables us to extend to the people on Taiwan the provisions of our law or to make them eligible for the provisions of our law which normally apply to nations or countries.

CONSULTATION WITH CONGRESS

Mr. GOODLING. One other question. When you were responding to Mr. Solarz about the blockade, was I to draw from that that when you are working your way into trouble you will inform us, and that when you are in trouble you will consult with us? Is that what I was to infer?

Mr. CHRISTOPHER. I would hope in any situation of international danger we would bring the matter to the attention of the proper committees of Congress to inform them, but also to consult them. Without seeming to be unduly solicitous, let me say that I find great education in the consultations that I am privileged to have with members of the committee. I think we are helped greatly in our policy formula-

tion and I would expect that would be particularly so during times of crisis.

IMPORTANCE OF DATES

Mr. GOODLING. I see I have an amber light. One more question on this last round. Knowing the history of Taiwan, did you give serious consideration to the date of February 28? That is not the most progressive date in the history of Taiwan.

Mr. CHRISTOPHER. I don't think we used the date of February 28. The date we used is the date of March 1.

Mr. GOODLING. I have just heard discussion awhile ago about February 28.

Mr. CHRISTOPHER. I may have fallen into picking up the date that was used in one of the questions of your colleagues, but I don't think the date originated with me. I hope it did not.

Chairman ZABLOCKI. Mr. Pritchard.

Mr. PRITCHARD. Thank you.

BLOCKADE OF TAIWAN

As you know, some of us followed you into Taipei a little while after when you were there. There is great apprehension and fear by those on the island as to their future. It could be very counterproductive to that island if the perception around the world is that they are in deep trouble and lack the continued outside help and investment and other things they need to make their economy continue to flourish.

It seems to me we agree at this point that the PRC does not have the capacity to go across that body of water and swallow up that island in a military fashion; but Taiwan is very concerned about a blockade. I think you were going to prepare an answer for the committee on the blockade. If I remember right China has a 12-mile or a 3-mile territorial water limit. Either way, I would imagine under this new setup they would consider that mileage from the island—those 3 miles—to be their territorial waters.

Therefore, if they put their submarines, or whatever they want, inside there, they would be faced with a very difficult decision on that blockade.

Maybe you can get back to us about what attitude we would take on a possible blockade of that island.

Mr. CHRISTOPHER. Well, we certainly will do that.¹

However wide their territorial waters, and I think they maintain 12 miles, but there are international waters between the island of Taiwan and the mainland of about 100 miles of international waters. We would regard a blockade in those international waters as being contrary to international law and raising grave problems.

Now, I will try to respond more fully, but that is a situation that we would not view lightly.

Mr. PRITCHARD. You realize they can stay inside the 12 miles with their submarines.

¹ The information is contained on page 17.

BOYCOTT OF COMPANIES DOING BUSINESS WITH TAIWAN

The second point I wanted to ask you is that I am concerned about companies being boycotted: The company who does work with the PRC would not be able to do business with those on the island of Taiwan. Do you have a response to that?

Mr. CHRISTOPHER. Well, there has been no sign that the PRC has any intentions along those lines. If the PRC were to insist that companies who did business with them, Congressman, not do business with Taiwan, they would fall within the parameters of our boycott laws and there would be a serious problem created for them.

But although I understand that to be an interesting problem, I think it largely academic. Most of the countries involved have a great deal more business with Taiwan than with the PRC at the present time. I think most of the companies I know are looking forward to doing business with both of them.

Mr. PRITCHARD. I realize that. But I understand there have been several companies that have indicated this about having to make a choice. I think when we talk about "boycott" I hope we stay with the position we have in this country and apply it to the PRC and Taiwan as we have with others.

Mr. CHRISTOPHER. Pardon me a second. One of the good points of this bill, as far as I am concerned, is it would make certain that the antiboycott laws would apply to Taiwan as well as other countries.

Mr. PRITCHARD. I would agree.

USE OF FORCE AGAINST TAIWAN

Finally, would it be your assessment that one of the strongest deterrents to the PRC's swallowing up this island would be that they would lose the good relations and ground they are gaining in the normalization with the United States; that is, that a great deal of that would be lost if they went out and swallowed up that island?

Mr. CHRISTOPHER. Absolutely.

Mr. PRITCHARD. Now, if that is the case, would you think it possible we would break off our recognition of the PRC if they went out and swallowed it up?

Mr. CHRISTOPHER. I would say if they were to take forceful action against Taiwan, there would be a whole range of consequences, and that among those that would be considered would be the breaking of diplomatic relations.

My personal view happens to be that the breaking of diplomatic relations is not a very useful diplomatic tool. I think we need diplomatic relations when the going is tough. But if they were to take forceful action against Taiwan, I think there would be a string of consequences, and not the least of them would be consideration of breaking our formal diplomatic relations.

Mr. PRITCHARD. Finally, is it your opinion that those leaders, particularly the Vice Premier and the other leaders who might follow, are clearly aware of this, and this has been put to them very straight so that there is no question of them understanding this position?

Mr. CHRISTOPHER. Yes, I don't have any question about that at all. And I think if you read the statements of Vice Premier Teng and the other authorities in the PRC as well, they are very well aware of our position.

Mr. PRITCHARD. Thank you.

LEGAL PROBLEMS REGARDING TAIWAN

Chairman ZABLOCKI. The Chair will now begin the second round under the 5-minute rule.

Mr. Secretary, you state on page 14 of your statement, in reference to title I of the legislation, that under section 107, when U.S. law requires that foreign law be considered, the law applied by the people on Taiwan would be considered foreign law and that this will be a clarification that will be important, for example, in determining the validity of marriages and divorces, the distribution of descendants' estates, and similar matters.

Now, are there any legal problems regarding Taiwan which will not be resolved by the enactment of this bill? For example, the President's bill appears to deal only with Federal law. Some of the clarifications needed are, of course, under State and local laws, which this bill does not deal with.

Mr. CHRISTOPHER. First, let me say, Mr. Chairman, I would not be so bold as to assert that we have resolved all of the legal questions that would come along. When you are going through a change of status—

Chairman ZABLOCKI. It is only the tip of the iceberg, of course.

Mr. CHRISTOPHER. But on the particular matter you ask about, which was State law, as you know State law must conform to Federal law. And I think the determination of the Federal Government to maintain commercial and cultural relations in the way we are doing it, the entities we are creating would have to be respected by the State authorities. And I think that you would find that the persons and authorities which have a status under Federal law would be accorded a similar status under State law. I do not regard that as one of the main impediments to the continuation of our satisfactory relationships, although there obviously would have to be some adjustments as time goes on.

UNITED STATES-TAIWAN COOPERATION CORPORATION

Chairman ZABLOCKI. I would like to pursue the question that Mr. Mica had. When we had formal relations with the Republic of China but not the PRC, we had a U.S. liaison office in Peking. And, of course, the Secretary of State has explained to me, at least to the extent I could possibly comprehend, why we cannot have a liaison office in Taipei now. But the question is why do we have to call a new entity an institute? How about calling it a mission? How about calling it a commission? How about calling it the United States-Taiwan Cooperation Corporation?

Mr. CHRISTOPHER. Mr. Chairman, we are quite open about what Taiwan calls its instrumentality so long as the name it chooses did not in English—

Chairman ZABLOCKI. I am referring to what we call our entity.

Mr. CHRISTOPHER. Oh, what we call it? Well we chose a name that seemed to be an appropriate one from our standpoint. But once again, although that corporation has been created, and there has been a certain amount of authenticity already established—

Chairman ZABLOCKI. It can also be disestablished.

Mr. CHRISTOPHER. Yes, sir. There is no magic about that. And if the view of your committee was that we had misnamed the U.S. instrumentality, consideration could be given to changing the name. The important thing is that the name not connote an official character.

INDEPENDENCE FOR TAIWAN

Chairman ZABLOCKI. Mr. Secretary, this is a suppose question. Suppose the Republic of China—Taiwan—decides next month, next year, 5 years from now, to declare itself an independent entity and says it is not part of China, but a separate entity, where are we?

Mr. CHRISTOPHER. I think that would be an unwise and provocative act for them to take. And I would expect that might produce a reaction on the part of the People's Republic of China. As you know, for a long time both the PRC and Taiwan have claimed control of all the land, of both the island and—

Chairman ZABLOCKI. They may change their mind now.

Mr. CHRISTOPHER. Well, I think if they changed their mind it could have adverse consequences for the peace and stability of the area. That is why we frequently expressed the view that the Chinese people themselves will peacefully work out their relationships.

Chairman ZABLOCKI. But there are 18 million on Taiwan and if they determine they want to be an independent country, who are we to stop them? And if it is provocative to the PRC and they take overt and forceful action, then in answer to the question given earlier, Mr. Christopher would there be serious consideration of breaking diplomatic relations with the PRC if they use force?

Mr. CHRISTOPHER. Well, I think the use of force by either side in that area would be an adverse situation that—

Chairman ZABLOCKI. But Taiwan would not use force. They would just say, we are independent. We are not attacking the PRC.

Mr. CHRISTOPHER. My comment on that, Mr. Chairman, would be again, I think that would be a provocative act that could create a dangerous situation in those channel waters.

Chairman ZABLOCKI. Well, we would have some serious problems then, would we not?

Mr. CHRISTOPHER. Well, yes, I think we would have some serious problems over time. That is why we have repeatedly urged the parties, the people on both the island and on the mainland to work out their problems peacefully.

Chairman ZABLOCKI. And have the people in Foggy Bottom thought this over thoroughly?

Mr. CHRISTOPHER. Well, the matter has been considered since 1972, and a good deal of effort has gone into trying to work out these new relationships in the most successful way, Mr. Chairman.

Chairman ZABLOCKI. Mr. Secretary, I am sure all my colleagues agree you are an excellent witness. You are very persuasive. But I

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must say you have not persuaded the Chair as to the deal we got. I know that the executive branch said our negotiators came back with the bacon. In my opinion, they did not come back with the bacon: They got the sow's ear.

When Vice Premier Teng came here, he brought two ears and threw in the tail.

Mr. CHRISTOPHER. Mr. Chairman, I just have to say knowing the strength of your views, I want to express my appreciation for the courtesy you have accorded me throughout this hearing and our many discussions.

Chairman ZABLOCKI. I am sure you realize that though the questions were pointed, they were put in a gentlemanly manner so as not to offend you or to be critical of you as Deputy Secretary of State.

Mr. CHRISTOPHER. I certainly appreciate that.

Chairman ZABLOCKI. Mr. Solarz.

HOUSE JOINT RESOLUTION 167

Mr. SOLARZ. Does the Kennedy-Cranston-Wolff-Solarz resolution impose any obligation or confer any right, in your judgment, upon the President to intervene militarily in or around Taiwan, which the President does not already have under existing legislation? Please answer quickly so I can go on to my next question.

The minutes are ticking away.

Mr. CHRISTOPHER. Mr. Solarz, I have learned that your questions are deep and searching. I don't want to be careless about answering them. It imposes an obligation on the President to inform the Congress, which I would hope that we would all feel in any instance, but it does emphasize that and it does spotlight that. So that is a somewhat different character of obligation than he has under current circumstances.

Mr. SOLARZ. But it does not impose an obligation to intervene militarily; it simply imposes an obligation to inform the Congress?

Mr. CHRISTOPHER. That is correct.

IMPACT OF FAILURE TO ENACT H.R. 1614

Mr. SOLARZ. Now, my next question is what would you say would be the implications for the future of our relationship with the people of Taiwan if this legislation were defeated and nothing were enacted in its place? I am talking now not about the Kennedy-Cranston-Wolff-et al., but rather the administration's legislation on normalization.

Mr. CHRISTOPHER. I think it would be very adverse. The action taken by the President in his memorandum, which I think was fully valid as a transitional document, might arguably lose validity in some respects over time. There are already legal challenges to our ability to continue to treat Taiwan in accordance with the memorandum. And I think those challenges would increase. Not the least of the matter, if Congress does not act, there will be severe budgetary consequences for the operation of the institute, so that the institute could be crippled. And that is not a full catalog. That is just some things that first come to mind.

Mr. SOLARZ. Could you amplify that for the record, Mr. Secretary, and particularly provide us with a legal analysis of what implications, if any, the failure to enact omnibus legislation would have on future trade with Taiwan, or travel to Taiwan, et cetera, so we can have a sense of what would happen?

Mr. CHRISTOPHER. I welcome the chance to do that.

[The information, subsequently submitted, follows:]

IMPLICATIONS OF FAILURE TO ACT ON LEGISLATION

If Congress does not pass legislation, we anticipate increasing legal challenges to the continuation of programs and relations with Taiwan, including particularly trade and other commercial relationships. This would give rise to general uncertainties about our commitments to Taiwan and to an erosion of confidence both here and in Taiwan.

The Administration bill also contains numerous provisions relating to the American Institute in Taiwan and its employees. Absent this legislation, we would be unable to continue to staff the Institute for very long with government employees on detached service.

If we have neither legislation nor reprogramming, we will be unable to maintain an American presence on Taiwan or to deal with the authorities on Taiwan.

Mr. SOLARZ. The next question is what would happen if the Congress amended this legislation and put in some statement which Peking felt was incompatible with normalization, and as a consequence of such changes Peking took the position, that it no longer wishes to normalize relations because the U.S. Government has violated the understandings which led to normalization in the first place; and therefore suspended diplomatic relations because of what the Congress had done. I realize this is a hypothetical situation, but given some of the language which is being suggested around here, it is not inconceivable.

If that did happen, what would be our position? Would we say at that point, well, if you do not want to normalize with us, we do not want to normalize with you, and we will go back to what we had with Taiwan? Or would we sort of remain in a diplomatic limbo, having severed relations with Taiwan but not enjoying them with Peking?

Mr. CHRISTOPHER. There are too many contingencies built into that for me to answer. But let me say that I think in the first place that contingency would be faced if Congress enacted legislation which the President regarded as inconsistent and incompatible with normalization and with the actions he has taken as President. And then he would feel an obligation not to approve the legislation. I think that would be the first step in the chain.

Should normalization not go forward after all the steps had been taken and all the impetus that it has, I think it would be a severe setback for the United States in its foreign relations and national security.

Mr. SOLARZ. But would we, at that point, resume our relations with Taiwan or not?

Mr. CHRISTOPHER. I do not have an answer for that contingency. I think that Congress will do what is right in working its will on this legislation and we will be able to go forward in the new relationship that is described in my testimony.

INDOCHINA CONFLICT

Mr. SOLARZ. Mr. Secretary, would you say that we have impressed upon the people of the People's Republic of China our interest in the peaceful resolution of their current differences with Vietnam and our expectation that this issue will be settled peacefully by the Chinese and Vietnamese? If not, why not? And if we have, and China in spite of those expectations, attacks Vietnam anyway, would you think that such action has any implications for the viability of our expectations concerning their willingness to resolve the problems of Taiwan peacefully?

Mr. CHRISTOPHER. Well, we have urged all the parties to the conflict that has taken place between Vietnam and Cambodia, Congressman, to use restraint and not to do anything that would broaden the parameters of that conflict. And that caution and that plea for restraint has been made to all of the countries in the area.

Mr. SOLARZ. What would be the implications if in spite of that plea China invaded Vietnam anyway? Would you draw any conclusions that with respect to the validity of these expectations concerning the peaceful resolution of the Taiwanese problem?

Mr. CHRISTOPHER. That is a question that we would have to confront as events unfolded, and I would not want to speculate on it at the present time.

PEACEFUL RESOLUTION ON TAIWAN

Mr. SOLARZ. Let me ask you one final question, because certainly I think it would have very adverse implications. But, be that as it may, would you say on balance that the policy of normalization enhances the prospects for a peaceful resolution of the problem of Taiwan, or do you think it diminishes the possibilities for a peaceful resolution or has no consequences one way or the other for the peaceful resolution on Taiwan?

Mr. CHRISTOPHER. I think it already has enhanced the possibilities for a peaceful resolution. I think the comments made by Vice Premier Teng when he was here and the comments he made in Peking and the comments he addressed to the people on Taiwan tend toward a peaceful resolution of that problem. I understand why the response of the people on Taiwan has been a rather stiff one up to this point. But I hope that over time the opportunities for communication and travel between the two will begin to build bridges which will help toward a peaceful resolution.

If I may, I guess on my time, I will go back and say that we have recognized the People's Republic of China. That is where we are now. Ambassadors will soon be exchanged and if we were to find some reason to have to change that position, we would have to go through a process of derecognition.

That step has been established. It is past tense.

Chairman ZABLOCKI. Mr. Goodling.

Mr. GOODLING. I have a couple of questions, Mr. Secretary.

INVOLVEMENT OF U.N.

As we recognize the PRC as China, would not an attack by PRC forces against Taiwan be considered a civil war situation in which the United States or the U.N. could not legally become involved?

Mr. CHRISTOPHER. No, it would not be regarded as a civil war. It is a unique situation that has all of the historical import of the last 30 years. With respect to the United Nations, Taiwan would not be regarded as a state, but any hostility in that area would come within the provisions of the United Nations' Charter, which would call upon all parties to seek a peaceful resolution. So while Taiwan would not be regarded as a state for purposes of the U.N. Charter, nevertheless hostilities in the strait or across the strait would come within the purview of the United Nations.

Mr. GOODLING. You do not see a problem with the United Nations' definition of "sovereignty"?

Mr. CHRISTOPHER. Well, I do not think that would prevent the United Nations from taking appropriate action to try to preserve or keep the peace in the area if there was a threat to peace.

NORMALIZATION'S EFFECT ON OPIC

Mr. GOODLING. Have you touched, while I was out, on how normalization would affect the Overseas Private Investment Corporation, or OPIC?

Mr. CHRISTOPHER. Only very tangentially. And I am glad to say again that if Congress in its good judgment passed a statute along the lines of the one we have proposed, OPIC will continue to be able to issue its guarantees to businesses with respect to trade with the people of Taiwan. Some of the directions of OPIC's policies are in favor of countries with deeper economic problems than the people on Taiwan currently have. So I would say that the tendency would be for OPIC to operate less in places like Taiwan, but that has nothing to do with its changed status.

If this law is enacted, Taiwan will have the same opportunities as countries in relatively the same economic strata have.

Mr. GOODLING. And you are saying that with the legislation now before us, OPIC legislation which now prohibits dealing with those countries with which the United States has severed diplomatic relations, will be overcome?

Mr. CHRISTOPHER. Yes, sir. Taiwan will remain eligible for all OPIC programs.

BOYCOTT ACTIONS

Mr. GOODLING. How about the not so veiled boycott actions that are taking place already? Pan Am, for instance, has terminated flights to Taiwan, perhaps in exchange for hotels in mainland China; or has American Express not been honored on the mainland because they are still honored in Taiwan?

Mr. CHRISTOPHER. You are giving me facts that I do not have. But if this legislation is enacted, Taiwan would qualify for protection under our antiboycott laws. All the businessmen that I have talked to hope to do business in both places.

Mr. GOODLING. Yes, I know. Fifteen years from now, I told them, they will be knocking our doors down because of the tremendous competition they are getting from mainland China, and now all they see is the gravy.

BUSINESS DEALS WITH THE PRC

One other question. I noticed an article in the newspaper which says "Likes Head." That is the head of a company—to try to remove obstacles to United States-China trade. And he is going to fly to Peking on February 6, which is past, reportedly to open negotiations aimed at removing a major obstacle to maritime trade between China and the United States. Are we condoning this kind of thing as a Government? Should he be in that kind of position? Should he not be restrained during this so-called delicate time? How many groups do we have negotiating these obstacles that—

Mr. CHRISTOPHER. Well, I am at somewhat of a disadvantage, because I do not have the full article before me, but we have no objection to American businessmen dealing with Chinese officials and trying to work out trading arrangements. Indeed, we hope it will be a source of increased exports for the United States and American businessmen will find new opportunities—

Mr. GOODLING. I got the impression from this article he was negotiating something in relation to the agreement the administration has brought forth with China. I was wondering if he was sent there or is he doing this on his own?

Mr. CHRISTOPHER. I do not believe he is an emissary of ours.

NOTIFICATION TO TAIWAN

Mr. GOODLING. One last question. When was Taiwan notified of this action that was taken while the Congress was out of Washington, D.C.?

Mr. CHRISTOPHER. Taiwan was notified the night before or only a few hours before the President announced the matter. I think the fact is that the Taiwan authorities had long been aware that this was going to take place and it was a matter of time. The amount of time that they were notified was a matter of hours; somewhere between 5 and 10 hours. I understand.

Chairman ZABLOCKI. Any further questions?

Mr. Quayle.

Mr. QUAYLE. Thank you, Mr. Chairman.

IMPORTANCE OF DATES

Back to the March 1 date. If Taiwan does not implement an institute according to the guidelines that you would like to see, what will happen to their diplomats here? Will they be asked to leave the country. What will take place?

Mr. CHRISTOPHER. I hope it will not happen. And we are dealing with them on a regular basis that gives us some confidence that it will not happen. But if they do not create an instrumentality, there would be no basis on which their representatives would stay here unless they have some other proper immigration status.

Mr. QUAYLE. So then they would be subject to deportation or some other means of saying goodbye?

Mr. CHRISTOPHER. Yes, I would not want to speak about any one individual. They might have some other basis for staying in the

United States. But the fact is unless an instrumentality is created by them, by the 1st of March we will have to have contingency plans for ending their representation here and we would have real problems in Taipei, because we would have no counterpart with which to deal ourselves.

PRIVILEGES AND IMMUNITIES TO DIPLOMATS

Mr. QUAYLE. On the legislation that was submitted by the administration there was not any provision to extend privileges and immunities that go to diplomats. They would not be recognized. They would not come under this classification. Would there be an objection to us inserting that language in there to provide privileges and immunities that diplomats have?

Mr. CHRISTOPHER. Let me answer that two ways. I think it is a very good and fair question. It would not be proper in our view to provide for them governmental or official or diplomatic immunity. But the practical aspects of that—what might be called functional privileges and immunities—could be extended to them, such privileges and immunities as would be necessary to enable them to operate, such as the privacy of their papers, the immunities from legal process, and so forth. And I would be glad to work with the committee or its staff in trying to develop the necessary statutory authorization for that.

At one point we felt that the necessary functional privileges could be conferred by administrative action. That may not be correct. It may be necessary to have statutory authorization to confer the necessary privileges and immunities to allow their instrumentalities to operate here.

As I say, we would be glad to work with the committee on that.

Mr. QUAYLE. What privileges and immunities would not be able to go with them that normally are accorded to diplomats?

Mr. CHRISTOPHER. Well, the main thing we would want to avoid is to give an overall official status so that everything that would flow from the Vienna Convention would be automatically available to them. What we would like to be able to do is spell out the specific things that they would be entitled to have.

REACTION OF ISRAEL

Mr. QUAYLE. In answer to an earlier question by Mr. Solarz concerning the response of other countries, your response was that all other countries were very favorable. One country was neglected in which I have an interest—not as much as the gentleman from New York nor the knowledge he has—but the country of Israel. What has been their response, because I am sure you have read, as I have, that there are reports—not coming from them, but reports from other people—saying they may be in a different position with the United States all of the sudden changing its mind and, in the eyes of some of us, abandoning its longtime allies; that perhaps the circumstances of international affairs will change someday so that Israel will not be important to us, and that perhaps for reasons of economics or politics that we may change our mind concerning Israel.

Mr. CHRISTOPHER. First on your specific point I would like to furnish for the record any reaction Israel may have. I really do not carry that in my mind.

[The information, subsequently submitted, follows:]

ISRAELI REACTION

There has been no official reaction by the Government of Israel.

Mr. CHRISTOPHER. But I would want to distinguish between the two situations quite sharply. We do not have a comparable treaty with Israel of the kind we have with Taiwan, but we have deep and long-standing security commitments, to which the President has pledged himself repeatedly and recently. There is no equivocation about those pledges. Our concern, our determination to preserve the security of Israel is very deepseated. And I think that it needs to be put in a far different category than this very unique situation between Taiwan and the People's Republic of China.

CONCESSIONS BY THE PRC

Mr. QUAYLE. One final question. I see the amber light. What were the substantive concessions that the PRC made as distinguished from 1972 and the Shanghai Communiqué, Mr. Christopher, that led to this normalization?

Mr. CHRISTOPHER. Well, three come to mind. There may have been more than these three.

First, their willingness not to object to our continued sale of defensive arms to the people on Taiwan.

Mr. QUAYLE. They object, but they will let us go ahead and do it?

Mr. CHRISTOPHER. We said we are going to do it and they said they objected to that, but there was normalization in any event. And subsequent statements by Vice Premier Teng make it clear they recognize we are going to sell arms. That was a highly contested matter and was contested right up to the last.

The second was the basis on which we would terminate the treaty. They had strongly wanted us to abrogate the treaty so that the treaty went out of existence the moment the PRC was recognized. We insisted on doing it legally and within the bounds of the treaty.

Third, we were determined to be able to make the statement that we expected the Taiwan issue, Congressman, to be resolved peacefully and that they would not contradict that statement.

Those are three of the major matters that fell into place during the last weeks of negotiation.

Mr. QUAYLE. Thank you.

Mr. CHRISTOPHER. I might say that there is one additional one that one of my colleagues has just called to my attention. For a number of years they had insisted on the abrogation of all of our treaties with Taiwan. I am not sure exactly when they receded from that point of view, but as you know, we were able to continue with 55 of our treaties and agreements in the commercial and cultural area.

Chairman ZABLOCKI. Mr. Solarz has one final question.

Mr. SOLARZ. Thank you, Mr. Chairman.

FUNCTIONS OF THE INSTITUTE

Mr. Secretary. Is there anything which our liaison office in Peking now does or can do and anything which our Embassy in Taipei does or

can do that this Institute will not be empowered to do, assuming it is established?

Mr. CHRISTOPHER. Yes.

Mr. SOLARZ. What?

Mr. CHRISTOPHER. Issue visas.

Mr. SOLARZ. Is that all?

Mr. CHRISTOPHER. I would think there are things of an official character that they can do that the Institute cannot do.

Mr. SOLARZ. Can you put that in the record?

Mr. CHRISTOPHER. Yes.

[The information, subsequently submitted, follows:]

DIFFERENCE BETWEEN THE AMERICAN INSTITUTE IN TAIWAN AND THE U.S. LIAISON
OFFICE IN PEKING

The Liaison Office in Peking provides the full range of consular services available at U.S. embassies around the world. As an unofficial organization AIT would not be able to issue visas or provide passports. It will, however, take applications for visas and passports, to be officially approved elsewhere. The applicant will not perceive any difference. In other areas the services provided would be substantially the same.

Mr. SOLARZ. Thank you very much.

Chairman ZABLOCKI. Thank you, Mr. Secretary. We are deeply appreciative of the time you have given and the responses to the questions that we directed at you.

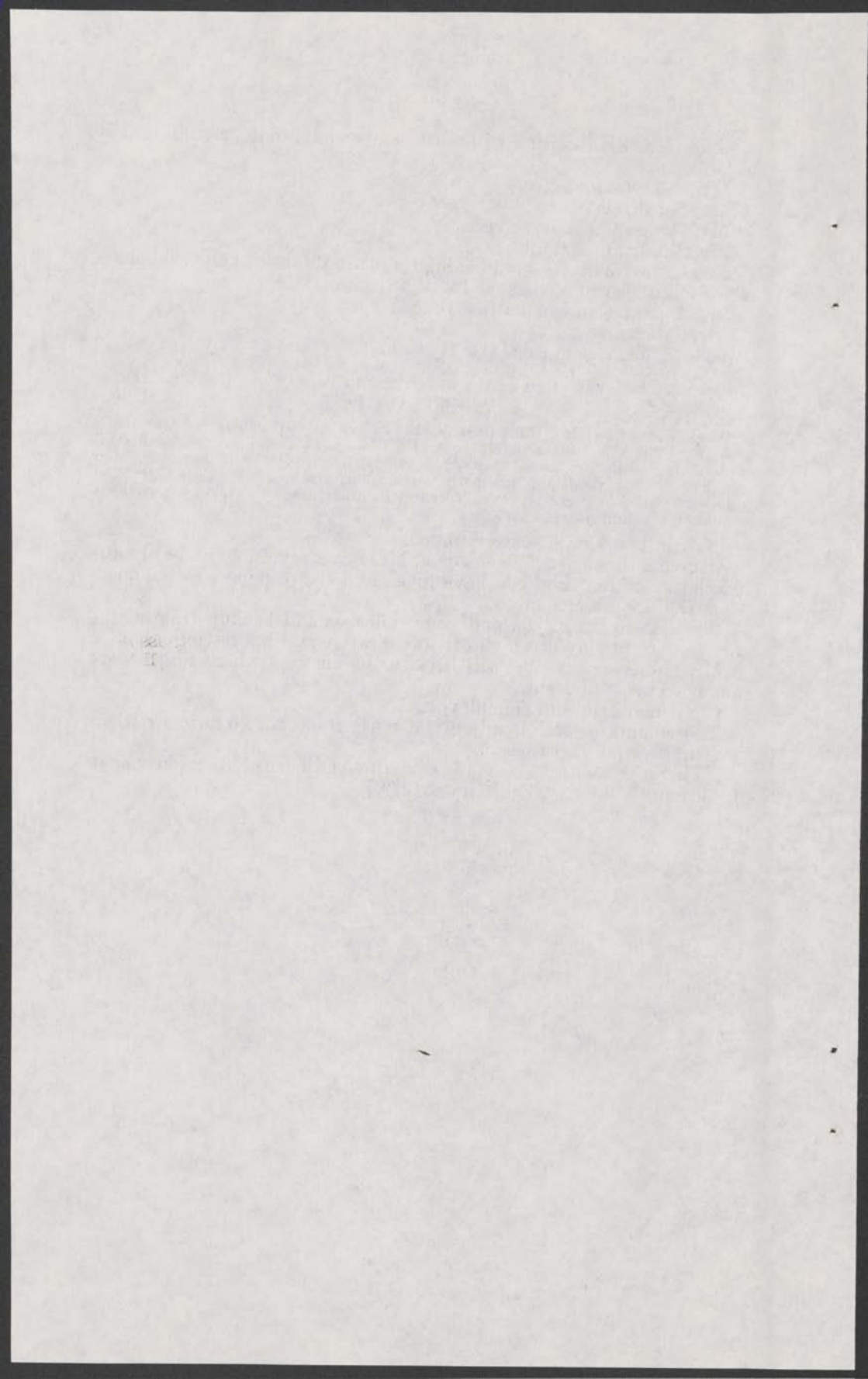
We wish to thank you and your colleagues and backup team again for your testimony given on this provocative and interesting issue.

Mr. CHRISTOPHER. We will furnish the answers where I fell short and need to supplement.

Chairman ZABLOCKI. Thank you.

The committee stands adjourned until 10:30 a.m. tomorrow when we will hear public witnesses.

[Whereupon, at 3:35 p.m., the committee adjourned, to reconvene at 10:30 a.m., Thursday, February 8, 1979.]



TAIWAN LEGISLATION

THURSDAY, FEBRUARY 8, 1979

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C.

The committee met at 10:45 a.m. in room 2172, Rayburn House Office Building, Hon. Clement J. Zablocki (chairman) presiding.

Chairman ZABLOCKI. The committee will please come to order.

We are pleased to receive testimony today from Hon. Leonard Unger, who has served with such distinction as the American Ambassador to the Republic of China. Ambassador Unger will be followed by Mr. David Kennedy who will be testifying in regard to our important business interests as Chairman of the United States-Republic of China Economic Council.

Concerning this afternoon's schedule, the Chair wishes to advise members of an addition to the witness list. He is the Honorable George Hansen, Member of Congress from Idaho, who will be our first witness this afternoon.

Also, the Nuclear Regulatory Commission has sent word that it does not desire to testify at this time because it has not yet formulated a position concerning the President's requested legislation on Taiwan. The NRC states that if members have specific questions that they wish to submit in writing, the Commission will study the questions and will try to provide answers as soon as possible.

The chairman has made that statement because there were some members that were very interested in having NRC appear. I gave the reasons why they do not wish to do so, but they are willing to supply answers to questions submitted by those members.

Ambassador Unger, welcome to the committee. We received your prepared statement, which is before the members. You may proceed. You may read the statement or summarize it.

STATEMENT OF HON. LEONARD UNGER, FORMER U.S. AMBASSADOR TO THE REPUBLIC OF CHINA

Mr. UNGER. Thank you, Mr. Chairman. I am pleased to be with you to say a few words about my perception of the situation in Taiwan and to try to answer any questions you may like to raise.

At the outset I would like to point out my status as Ambassador came to an end 1 minute after midnight January 1. Since that time I have been pretty much out of touch with the day-to-day situation in Taiwan, and with the official discussions that have been going on since that time about future nongovernmental relations between the United States and Taiwan.

TAIWAN'S ECONOMY

However, on the basis of more than 41½ years as U.S. Ambassador to the Republic of China and also taking into account the recent change in relationships I am convinced of the basic strengths of Taiwan's economy and capabilities of its people.

Last year its total trade worldwide amounted to almost \$24 billion of which almost \$13 billion were exports from Taiwan. At the end of the year the country's trade surplus stood at \$1.7 billion and foreign exchange reserves at \$5.7 billion. While the United States sold to Taiwan almost \$2.4 billion of goods the United States purchased \$5.2 billion and thus its trade with Taiwan was in deficit by more than \$2.8 billion.

Up to the time that I left Taipei on January 19, the economy appeared to be weathering normalization without crisis and I have been informed that this situation has continued to date. There has been no serious capital flight, and confidence in the future has been buttressed by announcements by a number of leading American firms that they plan to increase their investments on the island. There have also been reassuring announcements by American banks that they intend to expand their operations including loans for capital investment. As one might expect there have been declines in such highly speculative areas as the stock market and luxury housing, but this is not indicative of the overall strength of the economy.

Maintaining confidence is a key factor, of course, in assuring that normalization in no way undermines the security and the well-being of Taiwan and its people, which is a goal that has been pledged by the United States.

This underlines the importance of the omnibus legislation you are now considering, since the continuity of economic, cultural, and other relations will be greatly buttressed by the provisions of that legislation. It clearly confirms that Taiwan will continue to benefit from Export-Import Bank loans, OPIC guarantees, nuclear cooperation, and continued arms sales among many other programs. While I perceive no near-term threat of military attack on Taiwan, it is important that it maintain a credible military deterrent, and the machinery and provisions contained in the omnibus legislation will facilitate that.

AMERICAN INSTITUTE IN TAIWAN

Thus the creation of the American Institute in Taiwan and its ability to begin functioning promptly is also very important to maintaining confidence as well as insuring that the necessary relationships continue.

The provisions of the bill relating to AIT staffing, reemployment, and retirement rights and so on, will make it possible for that organization to have the kind of experienced employees, including employees with Chinese language qualifications, that it will need.

At present, Taiwan has formal diplomatic ties with only 20 countries. However, it maintains informal nongovernmental relationships with more than 100 countries, including all of our NATO partners, Japan, Australia, and New Zealand, and the countries of Southeast

Asia. Looking at Taiwan's worldwide trade figures it is quite clear that these informal relationships have been able to facilitate the commercial and travel links essential to that trade.

The arrangements which the administration has proposed through the creation of the American Institute and in this bill, are more elaborate and more detailed than those of any other country. I am convinced that in this way we can maintain a full range of substantive, meaningful relationships with Taiwan and that the peace and prosperity of its people will thereby be assured.

Finally, to do less than has been proposed by the administration would not only risk weakening the important Taiwan-American relationships, but might over time also have the effect of weakening or undermining the important nongovernmental relationships mentioned earlier with over 100 other countries around the world.

That is the end of my statement, Mr. Chairman.

Chairman ZABLOCKI. Thank you, Mr. Ambassador.

IMPORTANCE OF UNITED STATES-TAIWAN RELATIONS

If I may refer to your statement, in the final paragraph you say: "To do less than has been proposed by the administration would not only risk weakening the important Taiwan-American relationships" and so forth. We are being advised in other testimony that there will not be any Taiwan-American relationships. There will not be any government-to-government relationships.

Would you explain what you mean by the risk of weakening important Taiwan relationships? If we take the testimony we have received, there aren't any.

Mr. UNGER. Mr. Chairman, the reference there was not to diplomatic relations, as they existed before, between the United States and the Republic of China. Those relations were terminated at 1 minute after 12 o'clock on January 1. What I was referring to here was a whole network of commercial relationships, cultural relationships, relations in the financial and the whole range of economic fields—pertinent and private institutional relationships. We think it is very important these be continued, not be interrupted; and the objective of the omnibus legislation is to be sure that those are not interfered with because we feel the continuing security and prosperity of Taiwan can be assured if all of those continue uninterrupted.

TAIWANESE PEOPLE

Chairman ZABLOCKI. Mr. Ambassador, the executive branch repeatedly refers to the relations with the people on Taiwan. I am sure that is primarily to placate the PRC. But after all, the population of Taiwan is 18 million people, 15 million of which are Taiwanese, not Chinese.

Is there any possibility that the Kuomintang Party, the Chinese Nationalists, will then be challenged by the 15 million people on Taiwan who do not come from the Chinese mainland and may resent KMT rule, and that these Taiwanese will demand that relations be with people of the majority on Taiwan, with people representing the

Taiwanese? Do you see any problems in this respect? Is it not true that they, the 15 million Taiwanese people, favor self-rule, are not happy with the Kuomintang, would not want to be ruled from Peking, and may some day declare independence as Taiwanese or will seek it even if they are unable to declare it?

Mr. UNGER. Mr. Chairman, one point I would like to stress. That is, although the Taiwanese are the descendants of people who have been on Taiwan for several centuries, most of them, nevertheless, do regard themselves as Chinese. They came from the Province of Fukien for the most part just across the straits. Their language is a dialect of Chinese. Their customs, religion, et cetera are in many ways very similar to those across the straits and also similar in a broader sense to that of the Chinese culture in general. They don't regard themselves as not Chinese. You are quite right in referring to strains and differences that were particularly acute right after the end of World War II, when the mainland government established itself on Taiwan, and particularly in 1947 and 1950. There were very acute strains because the Taiwanese were resentful of what they felt was a very tight and dictatorial rule that was imposed on them, and also they felt they were treated in many ways as second-class citizens.

Since that time there has been a pretty steady evolution in what I would call a constructive direction, and the Taiwanese have played more and more of a role. It is true that the party, the KMT Nationalist Party, continues to be definitely in charge. The KMT Party today, however, has many Taiwanese members. As the security of Taiwan improved, as the situation became more stable—and I would say particularly as their economic situation improved very markedly—there has been much less of a conflict and a strain between the Taiwanese and the mainland Chinese.

In more recent times there has also been an opening up of the political system. There had been elections, notably those of December 1978, which were much more open than earlier elections and in which many Taiwanese ran and were elected to office. You will find, for example, that in the government below the national level, the Taiwanese are essentially in charge when it comes to the Taiwan provincial government, when it comes to the magistrates et cetera. These are now mostly Taiwanese.

Now, I can't look with any kind of assurance into a crystal ball and predict what is likely to happen. I think it is inevitable that the Taiwanese will be a more and more important element in the picture as time goes on because those mainlanders who came to Taiwan are now getting along in years. They will not be able to hold indefinitely the positions of leadership. Their children have much less of a feeling of difference, and many of them have intermarried with Taiwanese. So I think the differences will become blurred. I also think you are quite right in that I don't believe that the population on Taiwan, whether mainland or Taiwanese, has any desire to live under the regime on the mainland as matters stand today. So they will want to keep the separate kinds of political resistance that they have today as far down the road as I can look, and I would say until they are satisfied that the regime on the mainland is one that would be more congenial to them.

Chairman ZABLOCKI. I wonder if I could have the indulgence of the committee for a followup question.

INDEPENDENCE FOR TAIWAN

On the basis of your reporting on the political situation and the Taiwanese participation in the government, is it not possible that the leadership on Taiwan will be declaring independence for Taiwan, forgoing the past claims that they also represented the Government of the mainland; and if that happens, where are we?

Mr. UNGER. I would say that if you are speaking of the present leadership or one that is likely to be in charge in Taiwan in the next, let's say for purposes of discussion, 5 years, I would not expect that they would take that kind of a step because I think they, including some Taiwanese who are part of that leadership, will continue to have a very strong sense of mission about being the preservers of Chinese culture and in opposition to what happened on the mainland.

After that time, somewhere further down the road, I think what you suggest is a possibility, but we are talking about a very pragmatic people. People who I think are pretty realistic and would have a pretty good idea of what a declaration of independence might mean in terms of raising a serious problem with the mainland and also perhaps serious problems with other countries around the world. I do not know what effect such a move might have on the relationship with the United States and some other countries. I personally would not look at any early date for that kind of a step.

Chairman ZABLOCKI. As far as their relationships with the United States are concerned, I hope they would not perceive the United States as wanting to dictate under what system of government they live or whether they would be independent.

Thank you, Mr. Ambassador.

Mr. Broomfield.

Mr. BROOMFIELD. Thank you very much. It is nice to see you again Mr. Ambassador.

ASSURANCES TO TAIWAN

Following up the chairman's question it seems to me the Nationalist Chinese are over a barrel. I think one of the problems we have is the concern of a lot of us over the suddenness of the normalization. Also, we just don't know what arrangements have been made as far as Taiwan's economy and security are concerned.

Taiwan's economic ties with many countries are obviously a key to its future. I guess one of the areas that troubles me is whether any assurances have been given to the Taiwanese people and government in relation to protection against an embargo or economic sanctions. Obviously, the People's Republic of China could choke off Taiwan very easily. Would you comment on that?

Mr. UNGER. Sir, I think that there have been assurances given. They have been thus far usually in rather general terms, but the President's action to continue in force agreements and laws bearing on our relations with Taiwan in all respects except for the mutual defense treaty, certainly has made it clear that we intend that there should be no interruption to those relationships. Although I am not familiar with the details of the omnibus legislation, that is certainly its purpose as well, to be sure that those relations do continue and that the extremely close and very broad ranging economic, financial, commercial,

and other arrangements, provision of nuclear power, Most Favored Nations Treaty, all of those things, remain in effect and continue uninterrupted so there would not be the kinds of hiatus or damage to the economic relations that you have mentioned.

Now on the question of economic sanctions and embargo, that again is a crystal ball question. Over the many years when it would have been possible for mainland China to have taken actions, perhaps not so much with regard to American business but with regard to business of other countries that do a great deal of business with Taiwan, the instances are very, very few in which the Chinese used instruments they had at their disposition to try to choke off trade, commerce, and other connections with Taiwan.

Certainly it is our impression that this is not their intention. Some of the things that have been said recently suggest that they understand that we have as an objective to see the economic, commercial, and financial connections go ahead unimpeded and that they would not interfere.

MOTIVES OF PEOPLE'S REPUBLIC OF CHINA

Mr. BROOMFIELD. Mr. Ambassador, you are a real expert on this whole China question. I wonder if you could give the committee your evaluation on what prompted the change in attitude by the Chinese to move so quickly for normalization. Did it have anything to do with the problems they were having with the Soviet Union?

Mr. UNGER. Mr. Chairman, I am complimented. I am not much of an expert when it gets to the mainland side of things but I follow it closely.

I would say my own interpretation would point to at least two major factors. One, the security question obviously preoccupies them very heavily. They have 4,000 miles of frontier. They have Soviet troops lined up on the other side. They have what they regard as a menacing situation, and now they have what they have tended to refer to as the Cuba of Asia, a new development, on their southern flank in Vietnam.

I believe that they feel it is essential that they have no additional threats and no other emerging problems elsewhere and that this concern speaks for trying to get the Taiwan problem settled.

I believe this removes some of the objections they had to some of the things we said had to be a part of any settlement. The other thing that I would cite is the obvious, very strong push by the Chinese for modernization and economic development. They need the help, investment, et cetera, not only from other European countries and Japan but also from the United States, and without normalization they were not so likely to get that.

U.S. NATIONAL SECURITY CONCERNS

Mr. BROOMFIELD. One final question Mr. Ambassador with which I think we are all deeply concerned. I certainly respect the administration's judgment. Obviously they have thought this matter through very carefully but I am troubled about our national security interests in the Far East.

Do you think that with normalization we now have compromised our national security in the Far East?

Mr. UNGER. Congressman, I don't believe so. Certainly the kinds of estimates and assessments that I have read suggest that we have in the Western Pacific the means of carrying out our policy and living up to our obligations, taking account of the consequences of normalization with the People's Republic of China and of the withdrawal of our forces from Taiwan.

That withdrawal has already proceeded fairly far down the road. There have been no American combat forces in Taiwan since I believe the spring of 1975. So I take it to have been the judgment of the President and the Chiefs and others that this was not essential to our security posture in the Western Pacific.

Mr. BROOMFIELD. Thank you, Mr. Ambassador.

Chairman ZABLOCKI. Mr. Wolff.

CONSULTATION WITH THE AMBASSADOR

Mr. WOLFF. Thank you, Mr. Chairman. Mr. Chairman, I think it should not go without saying that we as a nation owe a deep debt of gratitude to Ambassador Unger for the fine way under very difficult circumstances he has handled our relations in Taiwan all these many years.

I recall, Mr. Ambassador, speaking to you—I think it was in 1975—in Taiwan. At the time I think you asked me how Congress would feel if we normalized relations with the People's Republic of China. There are many who have concluded that this was a fairly precipitous act and yet we have been discussing this question for many years.

In order to set the record straight I wonder if you could give us an idea of, back in 1975, whether or not you were under any instructions, or whether you had been consulted by the administration on the question of normalization.

Were you consulted at that time, or even before that?

Mr. UNGER. Congressman Wolff, when I went to Taipei first, in May of 1974, I had been in Washington for more than a month. I talked to people here. There was no question in my mind, or in anybody else's, that our fundamental policy and objective was the normalization of relations with the People's Republic of China and that there was, I would say, an assumption that this could be carried through and accomplished only if we were to terminate our diplomatic relations with the Republic of China, Taiwan. Therefore there was, I would say, a constant dialog any time that any officials were out there, and in my communications back and forth with Washington.

I felt it was part of my responsibility to point out the things that we had to pay most attention to at the time when we decided to go ahead with normalization, with the objective of preserving the kinds of nondiplomatic relations that we have been talking about with Taiwan.

Mr. WOLFF. What I am referring to is the fact that we had witnesses at that time—the Subcommittee on Future Foreign Policy was holding hearings on tripartite relationships and the question of normalization. One of our witnesses in camera said to us at that time that the administration was planning normalization right after the election. Were you made aware of that at all?

Mr. UNGER. I was not then, and I never have been aware in detail of the dialog taking place at the top of the executive branch of Government about timing questions.

Mr. WOLFF. Were you consulted at that time in 1975? I am not talking about the present administration but by past administrations? Were you consulted at that time on the *modus operandi* of normalization and given any idea of a timing schedule?

Mr. UNGER. On the latter point I was not aware of a timing schedule. On the former point, yes, but as I say consultation was a continuous process. There never was a time, from the day I arrived on Taiwan, when I and my staff did not have normalization in mind as our priority No. 1 task. I think you will recall, when you were there in 1975, one of the questions that you and I discussed was the question of most-favored-nation status for Taiwan.

I stated that it seemed to me it would be an essential that that and similar kinds of relationships would have to go ahead untouched, undisturbed, if we were to have a normalization that did not do serious damage on Taiwan.

Mr. WOLFF. When the new Carter administration came in were there further discussions? Was there continuation of this process or did it cease at any time? Do you recall?

Mr. UNGER. Congressman Wolff, I used to characterize this as a roller-coaster effect. This happened without reference really to changes in the administration but I can remember over the years that I was there, 4½ years, a number of instances when all the indications from Washington were that normalization was actively under discussions, that there was a feeling that maybe the time was ripe, that more concrete discussions were going to be taking place in Peking, et cetera.

I was not privy to the discussions in Peking as they proceeded. I did not have a step-by-step feel for this. But then something would arise and either a domestic event or an event overseas or the lack of some kind of progress on some of these issues and the word would come that now it looked as if it were not going to happen for some time.

NOTIFICATION OF DECISION TO NORMALIZE RELATIONS WITH PEOPLE'S REPUBLIC OF CHINA

Mr. WOLFF. Were you consulted before, and how long before, were you notified of the decision to normalize?

Mr. UNGER. Last December? The decision last December?

Mr. WOLFF. Yes.

Mr. UNGER. I was notified of that, approximately I would say, 2½ hours before I notified President Chiang. I was notified perhaps 8 hours before that that I should make an appointment with the President and that I would be receiving very important instructions.

I could make my own guess as to what those instructions were going to be about.

Mr. WOLFF. We on the committee received the notification that there was going to be an important announcement within the hour. My last question, Mr. Chairman, as the light turns red—may I ask unanimous consent to finish this question.

Were you as Ambassador consulted before—when I say consulted, did you have any role in the decisionmaking process—before the announcement was made?

Mr. UNGER. The decision, that is the decision of whether or not to proceed with normalization?

Mr. WOLFF. Yes. Were you asked about this?

Mr. UNGER. Over the years there had been a continuing dialog. My views were well known in Washington but, as to the specific timing et cetera, no.

Mr. WOLFF. Thank you, Mr. Chairman.

Chairman ZABLOCKI. Mr. Lagomarsino.

VIEWS OF TENG HSIAO-P'ING

Mr. LAGOMARSINO. Thank you, Mr. Chairman. Mr. Wolff asked many of the questions I was going to ask, Mr. Ambassador. Have you had occasion or the opportunity to read the account in this morning's Post of the statements that Vice Premier Teng Hsiao-p'ing made in Toyko?

Mr. UNGER. I thought I saw in my paper last night a reference to it. I have not seen it this morning.

Mr. LAGOMARSINO. Then I wouldn't ask about that but he is very critical of the U.S. foreign policy and I would be interested if someone would care to comment on what he is saying.

Mr. UNGER. As I recall, the specific remarks I saw had to do with Iran.

Mr. LAGOMARSINO. Primarily that is correct.

Mr. UNGER. I did see the headline and that is all, so I am not in a position to comment on that.

IMPORTANCE OF NUCLEAR POWER TO TAIWAN

Mr. LAGOMARSINO. How important is nuclear power to Taiwan, Mr. Ambassador?

Mr. UNGER. Nuclear power is extremely important as a source of energy for the economy. I have been told—I have not checked it out myself—that it is probably more important there than perhaps anywhere else in the world. The figure that is regularly cited is that in the mid-1980's Taiwan will be about 40 or 45 percent dependent for its energy on nuclear power.

Mr. LAGOMARSINO. Do they get all their nuclear fuel from the United States?

Mr. UNGER. At the present time.

Mr. LAGOMARSINO. What kind of contract or commitment do we have with them for nuclear fuel?

Mr. UNGER. Congressman, I am afraid I can't give a detailed answer. Ever since the original Nuclear Anti-Proliferation Act we have had the kinds of agreements with them that are called for under terms of the new act.

Thus we have a number of very detailed specific agreements covering nuclear fuel. There are also agreements that have been worked out in connection with Taipower on the one hand, and American companies like Westinghouse, General Electric, and so on, that have been involved in constructing plants or in the provision of fuel.

There is a great range of agreements but I am not in a position to tell you in detail just what those are.

Mr. LAGOMARSINO. Have you ever been aware of any communications to the Republic of China or to the people of Taiwan suggesting if they did not agree to the U.S. proposal for their new status the United States would consider it necessary to cut off their supply of nuclear fuel?

Mr. UNGER. No, I am not aware of that. I think it has been clear under our law that there must be an agreement or an undertaking on the part of the entity, whether state or country that receives nuclear fuel. They are required by our laws to agree to certain things.

Those requirements exist now, and again it is my understanding that the omnibus legislation would keep those in effect.

Mr. LAGOMARSINO. Thank you.

Chairman ZABLOCKI. Mr. Solarz.

Mr. SOLARZ. Thank you, Mr. Chairman. I yield to my good friend from the Bronx.

Mr. BINGHAM. I thank the gentleman for yielding. I have to go to another meeting and I want to welcome Ambassador Unger. It is good to see you and I want to salute you for your service, which I hope will be continued for many years. I do think your statement is extremely helpful in that it emphasizes how important swift passage of this legislation is to our continuing relationships with Taiwan. I thank my friend.

RELATIONS OF OTHER COUNTRIES WITH TAIWAN

Mr. SOLARZ. Mr. Ambassador, you indicated in your testimony there were 20 countries that still had formal diplomatic relations with Taiwan. Do any of them also have formal diplomatic relations with the People's Republic?

Mr. UNGER. I think the answer is clearly "No."

Mr. SOLARZ. You also indicated there were 100 countries that had informal ties with the Republic of China. Do any of them have institutes or other informal arrangements which go beyond what would be provided for in the omnibus legislation submitted by the administration? In other words, do any of the other institutes which other countries have established have powers or responsibilities which our institutes would not have.

Mr. UNGER. Congressman, I would say "No." The institution that is the most elaborate is the Japan Interchange Association and the equivalent Chinese or Taiwanese counterpart. But there are many others. There are cultural institutes like a German Goethe Society. There are trading groups.

Mr. SOLARZ. Do any of them have powers or responsibilities that our Institute would not have?

Mr. UNGER. None of them have any powers or responsibilities which the American Institute will not have.

ATTITUDE OF PEOPLE ON TAIWAN

There was a piece in the New York Times about 2 weeks ago by Edward Freedman, who you may know is something of a China specialist on Taiwan, in which he wrote among other things that the

Kuomintang is an object of hatred to virtually all Taiwanese and even to many mainlanders residing on Taiwan. He went on to say that had the elections, which the Taiwanese just postponed, taken place, the Kuomintang would have taken a beating. He concluded by saying the zealous celebration of Taiwan's citizenry on the removal of that mainland security force would rival Iranians' glee on the Shah's departure. You have been on the island for a while. What is your reaction to Mr. Freedman's assessment of the attitude of the people on Taiwan toward their Government?

Mr. UNGER. I think it is a distinct overstatement. As I indicated earlier such an assessment perhaps could have been true, particularly around 1947, 1950, 1953, or 1954. My own view is in the succeeding years the improvement of the situation, first economically and more recently politically, and also the improvement in the Kuomintang itself and the way it does its business, has made for a good deal less tension, less of the kinds of feeling that you mentioned. There are people who have suffered at its hands and who feel it was totally unjustified but those numbers again are many many fewer than they were.

Mr. SOLARZ. Would you say by and large the majority of the people in Taiwan more or less support the present Government or, would you say as Mr. Freedman suggests, that most of them appear to oppose it?

Mr. UNGER. Like a good diplomat, I find the truth somewhere in between. In other words, I think there are a lot of people who are not active supporters but who are ready to agree that the Government has by now brought about a very considerable measure of prosperity and economic development and so on, that political and security pressures have been reduced.

Mr. SOLARZ. You don't find broad-based, deep-rooted opposition to the Government.

Mr. UNGER. No. In some measure, yes, but not widespread.

IMPORTANCE OF LEGISLATION

Mr. SOLARZ. Broad-based opposition is what I asked. What would happen if this resolution or this omnibus legislation was either defeated in the Congress, or if it was adopted and the President then vetoed it so there was no legislation? Could you give us some sense of what the precise consequences would be for our trade, for our future relationship, with Taiwan. Would it all come to an end, or would it continue? What exactly would happen?

Mr. UNGER. Congressman, as I said earlier, I am not that familiar in detail with the omnibus legislation, but I would expect that the principal effect would be a very serious blow to moral instability and security on the islands.

Mr. SOLARZ. So it would be more harmful to them than to us. Is there anything that would prevent Americans from continuing to do business with Taiwan if this legislation—

Mr. UNGER. I think so. I already mentioned the specific application on the nuclear side. The Most Favored Nation Treaty would not continue. I would think almost surely the business of the Export-Import Bank would be badly hampered if not terminated. I think the com-

merce, navigation, airlines, all of those relationships would be very adversely affected, and I would think that many Americans who are doing business there today would be very much at sea and would not have any assurance about how they could continue to do business. I think it would be very damaging indeed.

Mr. SOLARZ. Could I have unanimous consent for one more question?

Chairman ZABLOCKI. The Chair has recognized members for unanimous consent, including himself. Without objection, I grant unanimous consent to the gentleman from New York.

POWERS OF THE INSTITUTE

Mr. SOLARZ. What powers did the Embassy have in Taiwan that the Institute won't have? What could it do that this Institute won't be able to do?

Mr. UNGER. The Embassy and its consulate issued visas. As I understand, the Institute will not be able to do this, although there will be a device by which it can provide them, but the Institute will not be the actual issuing authority. I believe that the Embassy has been in a position to act much more directly with the Government. It has been able to talk to the Government on a direct basis. I believe that the Institute will be talking to a counterpart—will not be talking to the Government of Taiwan in the way that, for example, I was able to talk to the Foreign Minister, the President, and others.

The objective is to see that the Institute can do as much as possible of what the Embassy did before but recognizing that diplomatic relations as such have come to an end.

Chairman ZABLOCKI. Mr. Pritchard.

Mr. PRITCHARD. Thank you, Mr. Chairman.

AMBASSADOR'S VIEWS

Mr. Ambassador, previously in your testimony you said that while you were not involved in direct negotiation over a period of time, your views were well known. Could you share with us what your views were?

Mr. UNGER. I could put it most easily by saying that my view was that the kinds of things that are provided for in this legislation, that the things that would provide for continuity of relationships, apart from diplomatic relations, were the things that I felt were extremely important. If proper account were taken of those things and if continuity were provided for, then I could see a Taiwan continuing to be prosperous and stable and secure.

One thing we have not mentioned that I have felt always was essential in this picture was the continued provision by us of defensive arms.

Mr. PRITCHARD. Are you satisfied that the arrangements on arms will guarantee their security?

Mr. UNGER. As I understand them, they will. In other words, they provide the framework. Of course, what is provided in the future is still an open question. That is, decisions will have to be made case by case, but at least as I understand it the framework will be there under which defensive arms can continue to be provided.

LEGISLATIVE BODIES IN TAIWAN

Mr. PRITCHARD. When I went and looked at their Parliament, I noticed they have a great number of seats, and it is my understanding that the majority of those delegates do not represent Taiwan but represent different districts of China. Is that correct?

Mr. UNGER. There are a number of legislative bodies. There is the National Assembly which meets only, I think, once every 6 years.

Mr. PRITCHARD. Once every 6 years?

Mr. UNGER. Yes. That is a body constituted to amend the Constitution and to elect a President.

Mr. PRITCHARD. That is the body made up of people who were elected on the mainland of China 20 or 25 years ago, before they came across.

Mr. UNGER. 1949.

Mr. PRITCHARD. How do they get new members when old members die off?

Mr. UNGER. They only get new members representing Taiwan.

Mr. PRITCHARD. How many members have died or are no longer able to function?

Mr. UNGER. It is a substantial number. That is a long time.

Mr. PRITCHARD. Over a period of time, all the members from the mainland are going to die off, and they will end up with 10 or 12 percent of the body able to elect. Do their rules allow for a majority?

Mr. UNGER. Congressman, they have not, as far as I know, to date faced that question. There are still enough to form a quorum and to do their business. The share of representation from Taiwan is larger than it was initially, and those people are elected.

Mr. PRITCHARD. But the other ones, in other words from the mainland, there is no way to reelect them, and as they die off the seat is empty.

Mr. UNGER. That is right.

Mr. PRITCHARD. Hasn't this been an impediment to them standing up and saying they are an individual nation?

Mr. UNGER. I don't believe it is an impediment. The National Assembly is an impediment because its powers are limited. I think the legislative Yuan, which is like our Congress—I think the fact the representation continues to be so heavily on the mainland side is an impediment. They have broadened the Taiwan share of the legislative Yuan and those people are elected periodically.

Mr. PRITCHARD. What is the share, Mr. Ambassador, now?

Mr. UNGER. My recollection—I have to be checked on this—is the Taiwan representation is about 85. The total membership is about 400.

Mr. PRITCHARD. That was the body I was speaking of. So only 85 out of its representatives are from Taiwan, and all the rest of the 400 come from the mainland. Yet no one has been elected for the last 30 years?

Mr. UNGER. That is quite true.

Mr. PRITCHARD. I think that is an impossible situation.

Mr. UNGER. There is another body that is important which is regularly elected and that is the Taiwan Provincial Assembly which represents the rest of the country and is elected regularly and elected entirely on Taiwan. Those are currently elected representatives.

POPULARITY OF TAIWAN GOVERNMENT

Mr. PRITCHARD. It is my understanding that the government on the island was never as popular as when the announcement came of our breaking off diplomatic relations. Is that a fair statement?

Mr. UNGER. I would not try to answer that.

Mr. PRITCHARD. I have no further questions.

Chairman ZABLOCKI. The Chair desires to announce that we have finished calling on the members who were here at the beginning of today's meeting.

The Chair will call on Mrs. Fenwick.

Mrs. FENWICK. Thank you Mr. Chairman.

POWERS OF INSTITUTIONS OF OTHER COUNTRIES

Mr. Ambassador in your answer to Mr. Solarz I believe you said that none of those other institutions that various countries have established, among them the Japan Interchange Association, has powers that ours would not have. Your answer was no as I remember. But would ours have powers that the others have not?

Mr. UNGER. I believe that ours would function in a broader field and in a more direct way. As to specific powers, I believe not, but as to possessing the facility for doing business, for having a broad range of individuals who are specifically trained for this kind of service, I think that the Institute clearly would have such facilities.

Also, as you know, the omnibus legislation provides for continuing in force of many, many agreements, treaties, et cetera. I don't believe that that is true in the case of any other country. This would have a very major effect.

Mrs. FENWICK. It struck me because section 104 and section 105 specifically relate to the fact that this Institute shall have the power to implement decisions of the President or the Congress, laws and so on. Is that true of any other agency?

Mr. UNGER. I would say that, in a limited way, it would be true of something like the Japan Interchange Association. As to others, my knowledge is extremely limited. Mrs. Fenwick I am sorry but as I did indicate earlier I have not been involved in the drafting or discussions with regard to the omnibus legislation. I know its provisions in a general way but I am not in a position to answer that specifically.

JAPANESE OCCUPATION OF FORMOSA

Mrs. FENWICK. When did the Japanese occupation occur on what used to be Formosa.

Mr. UNGER. From 1895 at the time of the Sino-Japanese War until the end of World War II, until 1945.

Mrs. FENWICK. Fifty years.

Mr. UNGER. Fifty years.

Mrs. FENWICK. Is there any large colony there, any immigration?

Mr. UNGER. Not immigration in the sense of ordinary citizens coming to settle there but there is Japanese involvement in the economy.

PROVINCIAL ASSEMBLY ON TAIWAN

Mrs. FENWICK. The opposition party, does that exist? I mean when there are elections to the Provincial Assembly to which you referred, is there an opposition candidate who is allowed to disseminate information or propaganda at meetings and so on.

Mr. UNGER. There are several kinds of opposition. Just as a rule of thumb you could say the Provincial Assembly, which numbered about 80 members last December, 20 of them are opposition which represents a considerable increase from previously.

Mrs. FENWICK. The Provincial Assembly is the group that corresponds to our Congress.

Mr. UNGER. With fewer powers. Its focus is more internal but it does have some of the powers our Congress does have.

Mrs. FENWICK. Does it make up the budget for example?

Mr. UNGER. For all of the provincial agencies and there is a considerable field that they operate in such as agriculture and commerce and so on but there would be nothing on the international side.

MOUNTAIN PEOPLE

Mrs. FENWICK. What has happened to the mountain people?

Mr. UNGER. The mountain people, people we generally call the aborigines are given certain areas as a preserve for them to continue their traditional kind of agriculture or whatever other activities that they may be engaged in. I understand there are probably around 300,000 of them on the islands. Quite a number of them have long since left the areas and become essentially part of the body politic.

Mrs. FENWICK. Do they integrate easily?

Mr. UNGER. There is, you might say, a transition generation but after that, yes, there is no problem.

OPPOSITION PARTIES

Mrs. FENWICK. Did the opposition party express any interest in any degree of autonomy within the Government of Peking? Was there ever that kind of talk in opposition rallies and so on?

Mr. UNGER. Not to my knowledge, no. When you say the opposition—

Mrs. FENWICK. Any one of them?

Mr. UNGER. There are various parties. I am not aware, however, of any of them having taken that position.

ELECTIONS

Mrs. FENWICK. One last question; I was puzzled about what you said about the election. The newspapers here as I remember said the elections were due to take place on December 23 and I did see that they were canceled when this announcement came out on the 15th.

Mr. UNGER. I misspoke. I think I said 1978, I meant 1977. You are quite right 1978. Those were canceled.

Chairman ZABLOCKI. Mr. Pease.

Mr. PEASE. Thank you, Mr. Chairman and Mr. Ambassador.

SECURITY FOR TAIWAN

Just one question. It relates to security for Taiwan.

I am curious to know what the state of defense readiness is on Taiwan at the moment, what the arrangements will be for maintaining that the readiness into the future as our mutual defense treaty is ended, which is to say whether Taiwan has the money to buy the arms it might need.

Finally, in your view what would occur if the mainland Chinese did try to occupy Taiwan by force?

Mr. UNGER. Congressman Pease, the people on Taiwan have maintained readiness for quite a number of years now. They have considered themselves, even more than we have considered them, under constant threat and therefore their armed forces are kept in a very considerable state of readiness. They see their air force and their navy as a kind of frontline protection but, of course, they see a very important role for their army as well which is much larger than the other two services.

As to their capacity in terms of threat that they face today, I can refer you most recently to Secretary Brown's statement. To paraphrase it, I believe what he said was that he felt the People's Republic of China today would not be capable of taking over Taiwan by force. You can't speak for the indefinite future obviously but it is my understanding that the kinds of preparation for, say, amphibious action have simply not been made according to our knowledge. Moreover the forces on Taiwan are good, ready, well equipped, and well trained. We feel that they are in a good position to handle any situation they might face.

ARMS SALES TO TAIWAN

Mr. PEASE. Will there be any difficulty for Taiwan in maintaining future supplies, purchases of arms, and that sort of thing? Will they be able to get a supply relationship with somebody?

Mr. UNGER. I believe there should be no such problem because one of the undertakings already made is that we would continue to supply, or to sell to them, defensive arms. As far as their financial situation goes—if it continues anything like it is today—they will be in a position to buy whatever they need. So it will be simply a question of decisions on the American side as to what it is we feel is a legitimate requirement on their part.

Mr. PEASE. Thank you very much.

Chairman ZABLOCKI. Mr. Winn.

Mr. WINN. Thank you, Mr. Chairman.

Mr. Pease asked the first part of my question. As a followup, Mr. Ambassador, have you had a chance to discuss with the Taiwanese leaders any comments they might have had about Teng Hsiao-p'ing's statement here to Congress and also to the press that the Republic of China could continue to purchase arms and could continue to maintain their armed services?

Mr. UNGER. Congressman Winn, I have not been on Taiwan or in touch with their government since the 19th of January. I have not been officially Ambassador since the first of January so there was no opportunity for me to have that kind of discussion.

However, quite aside from what Teng Hsiao-p'ing said, it is our intention that they be able to purchase the defensive arms that they require and which we agree that they require to defend themselves.

PRESSURES ON BUSINESS

Mr. WINN. On page 2 you say when you left Taipei January 19 the economy appeared to be weathering normalization without crisis and that you had been informed the situation has continued to date, that there has been no serious capital flight, and confidence in the future has been buttressed by announcements by a number of leading American firms that they plan to increase their investments on the islands.

Are you aware of, one, the pressures that are being brought by the People's Republic of China on certain American businesses that if they want to do business with the People's Republic of China then they cannot do business with the Republic of China.

One of those is Pan American Airlines. Now, not being a jokester, you say there has been no serious capital flight but that is a flight that has been a great source of transportation between the people of that part of the world and the American people.

I would imagine that you yourself have flown it several times. Don't you think that is a serious loss of capital? We also know Pan Am has applied for a line into the People's Republic of China, into Peking.

Mr. UNGER. Congressman Winn, the case of Pan American is particularly pertinent because that took place certainly a matter of months before normalization was in fact announced.

Mr. WINN. Maybe they knew something Congress didn't know.

Mr. UNGER. They knew what had been said by President Nixon in 1972, in the Shanghai Communique, and by succeeding Presidents. They knew it was the policy of the succeeding administrations to normalize relations with the People's Republic of China. Also the People's Republic of China, in a number of other instances that I have heard of, has indicated to companies that if they did wish to do business on the mainland that perhaps it would be advisable for them not to do business on Taiwan.

On the other hand, there are many many instances where businesses have done business on both the People's Republic of China and Taiwan. There are instances where companies were given this kind of a warning by the People's Republic of China at one time and then it became quite clear maybe a year later or 2 years later that the People's Republic of China no longer felt that way and the company has gone ahead and resumed its business or done business on Taiwan without any ill effects.

So what you are referring to is a potential question, no doubt about it. But it is the kind of thing that has always been available to the People's Republic of China in the past, at a time when its relationship with us was a very hostile one, and yet it has not interfered with or generally caused a loss of American businesses doing very profitable business on Taiwan. I think that—I hope you won't mind if I say this—but I think Mr. David Kennedy has a more intimate and direct

feel for this question perhaps than I do, and certainly a more up-to-date one.

Mr. WINN. I am sure we will want to ask Mr. Kennedy questions along that line.

I was just thinking that since Teng was here and we met with him and he made the statement to members of this committee that it was all right with the People's Republic of China if Taiwan continued their economy, their standard of living, maintained their armed forces, and being so generous maybe it would be wise for our administration to allow him to urge businesses to do business with both Chinas. That would be a better PR deal and he is pretty good at that anyway.

Mr. UNGER. Yes indeed.

Mr. WINN. Maybe they better hire a PR guy, I don't know. Thank you, Mr. Chairman.

Thank you, Mr. Ambassador.

Chairman ZABLOCKI. Mr. Wolpe.

Mr. WOLFE. Thank you, Mr. Chairman.

INTERNAL POLITICAL SITUATION IN TAIWAN

Mr. Ambassador, I would like to pursue for a moment your characterization of the internal political situation on Taiwan. You indicated earlier while some improvements have been made politically there were still substantial elements of the population that were disaffected, if I understand your testimony.

Would you characterize for the committee the basis of that opposition? From where does it arise and how would you characterize the population that is disaffected?

Mr. UNGER. Congressman Wolpe, I don't think I would have said substantial elements of the population were disaffected, at least to the point of their being active in some kind of opposition role or very vocal about their feelings. I would say that the great bulk of the population tends generally to accept the situation as it is even though they may well not be satisfied with everything precisely as it goes.

There is no question but that earlier the disaffected group consisted of people who were advocates, in some cases, of an independent Taiwan, in other cases of at least a Taiwanese political party which they felt should be the dominant element on the island and at least an effective opposition to the KMT if not in fact taking over from it.

People like that have cited the situation I described earlier regarding the National Assembly and the legislative Yuan, pointing out that it is pretty difficult for them to get any kind of majority representation.

I would say that those people have been pleased by the December 1977 elections. They were encouraged by what they and we saw as developing for the December 1978 elections in terms of how much open discussion the Government was permitting, the fact that the Government was permitting more candid debate by many people who were not KMT members, and incidentally even permitting in some cases KMT candidates who were not chosen by the party but who nevertheless wished to run.

So there would have been much more competition than had been true in the past for the seats in Parliament.

HUMAN RIGHTS IN TAIWAN

Mr. WOLFE. Has any of the opposition centered on human rights violations within Taiwan?

Mr. UNGER. Yes. There are groups that criticized the fact, for example, that there is not more representation at a national level. There are groups that have criticized what they regard as arbitrary imprisonment by the Government.

Mr. WOLFE. Has such imprisonment occurred?

Mr. UNGER. What they are referring to is the fact that Taiwan is still ruled under marshal law. As far as the Government is concerned you might say they consider themselves still in a state of seige and under attack. This has been their situation ever since 1949. They have moved away from many of the very restrictive kinds of provisions but they still are operating under marshal law. However, civil courts have been operating much more freely and much more widely than was true previously. I would say that there definitely are critics, who feel the Government has acted arbitrarily.

From what I know of earlier times I say that criticism has over time been considerably reduced.

Mr. WOLFE. In recent months there has been some discussion in the media about arrests for treason. Has that in your judgment been an effort to stifle dissent or has there been a legitimate cause for concern?

Mr. UNGER. The Government regards anybody who advocates communism or who advocates a relationship with or unification with the PRC as definitely going beyond what is acceptable in the security field. In those instances the Government acts directly and promptly and feels it has full justification. I am not sure I have answered your whole question.

Mr. WOLFE. I am trying to assess from your perspective the human rights situation as it pertains in Taiwan at the moment.

Mr. UNGER. I would say that this is a country operating under marshal law, that considers itself still in a state of seige, with a one party system. It obviously is not a fully functioning democracy of the sort that we would look for.

On the other hand I would say there has been over time a very considerable improvement as far as individual human rights go.

CANCELLATION OF ELECTIONS IN TAIWAN

Mr. WOLFE. It has been suggested that the reason the elections were called at the same moment that normalization was announced was a concern that the opposition, which has been allowed to operate more freely in recent times, would in fact make substantial gains politically. Would that be a fair assessment of the reasons for the elections having been called off?

Mr. UNGER. I don't believe so because we were at that time within a week of elections on Taiwan and I am sure that if there had been an intention not to hold the elections this would have been carried through well before that. Leaving aside any predictions as to how the elections would come out, there were indications that it was going to be a good deal fairer, more open kind of election than any that we had had any experience with in recent years on Taiwan.

When the announcement of normalization was made, the Government felt that it was moving into an extremely delicate and uncertain period in which there might be a good deal of uncertainties, and that there might well be people who would want to take advantage of the situation.

I am sure there probably were some people who said this is great, now we don't have to have the election, but I think the responsible people in Government were not thinking in those terms and honestly felt it would be a mistake to proceed with the elections.

Mr. WOLPE. Thank you, Mr. Chairman.

Chairman ZABLOCKI. Thank you, Mr. Ambassador. We appreciate your coming before us, and we again salute you for the service you have given to your country, not only in the difficult post in Taiwan but also elsewhere. I recall the first time I met you, you were in a very difficult post in Laos.

Thank you, and we wish you well in all of your future endeavors.

Mr. UNGER. Thank you, Mr. Chairman, and thanks for the opportunity to meet with you today.

Chairman ZABLOCKI. Ambassador Kennedy, we welcome you to the Foreign Affairs Committee.

Like the preceding witness, you have rendered distinguished service to the Government over the years. You have been Secretary of the Treasury, Ambassador at Large, U.S. Ambassador to NATO. Your reputation for expertise particularly in the economic and banking fields has preceded your appearance before this committee.

There are here at the moment few members because there is no legislative calendar for today, and some members have taken the opportunity to go to their home districts. Further, we are almost into the lunch hour. But I can assure you that the transcript and, indeed, your prepared statement, will be made available to the members, and I am sure they will read them.

Further, I understand you will be appearing on February 15 before the Subcommittee on Asian and Pacific Affairs, chaired by the gentleman from New York, so there will be, I am sure, ample opportunity for members to explore your views and obtain answers to their questions.

Ambassador Kennedy, if you will proceed, sir.

STATEMENT OF HON. DAVID KENNEDY, CHAIRMAN, UNITED STATES-ROC ECONOMIC COUNCIL

Mr. KENNEDY. I appreciate the opportunity of being before you and to have the chance here to discuss some of those items.

I was particularly interested in hearing Ambassador Unger's testimony and he gave some background figures which were most helpful, I am sure. I have a little update on one or two items that he gave.

BUSINESS RELATIONS WITH TAIWAN

Since the announcements of normalization the stock market did react downward, but it has recovered and is apparently going along very strongly now. Also, they had gotten away from the PEG on their N.T.

dollars against the U.S. dollar, and it is floating, and it has even strengthened since the normalization adjustment.

I have one or two figures in my prepared testimony and I will give those. I might mention for information that our Council, the USA-ROC Economic Council, has members of over 230 businessmen and businesses, and in addition some 1,500 representatives of other U.S. firms have participated in the activities of the Council over the past year and a half.

Some of these firms now do business in the PRC as well as with Taiwan. Now that normalization has taken place, many of these firms are hoping to establish relationships and do business with the PRC as well as with other foreign countries, and this should help our balance of payments.

I do not presume to speak today for all of those members involved in the Council. I am fully aware that they have diverse opinions and views as to how our Government should approach the question of our future ties with the Republic of China. I can only speak as one who has had some experience in business and Government and who has had the benefits of many associations with American businessmen involved in commercial dealings with Taiwan.

When the President announced the outline of our new China policy on December 15, I concluded that we as a council of businessmen should do all we could to make this a workable policy. The central objective of the Council has always been to foster business relations between our two countries, recognizing that this relationship not only contributes to individual U.S. firms, but to employment and income in the United States. Today these relations take on added significance in that the future viability of Taiwan is more deeply dependent than ever on its commercial relations with the United States.

In my discussion with Secretary Vance 3 days after the President's announcement, he made it clear that U.S. policy would not be designed merely to maintain our economic relations with Taiwan, but would seek to achieve a significant expansion of these relations. In all of the other conversations we have had with officials in the State Department, we have gained the clear impression that the Department is anxious to maintain a legislative and regulatory environment conducive to the growth in business between the two countries.

As you gentlemen are well aware, this commercial interchange has grown impressively in recent years. Taiwan is now our No. 8 trading partner in the world, and we are expecting our two-way trade with Taiwan between now and 1985 to total around \$80 billion.

That will show the importance and the significance in a business way and in employment and in all of the other activities of a continuing relationship with Taiwan.

These prospects I might add are not "iffy" projections in the sense that they involve questions of where the money will come from to finance this trade. The ability of the United States and Taiwan to support growth in their commercial relations at this pace has been demonstrated over a long period. Taiwan has large foreign exchange reserves, and an impressive ability to earn increasing amounts of foreign exchange. They already have well-established export markets. Moreover, Taiwan has an exceptionally strong international credit rating.

Providing our Government continues to insure a healthy framework for the further expansion of our economic ties—and I am confident this is the intention—we can expect not only important contributions to our own employment and income, but to the strength and viability of Taiwan as well.

I would hope that progress on necessary legislation would be such that we could avoid any break or costly disruption in our commercial relations, and that business confidence will be maintained by whatever legislation and regulations are decided.

We have had assurances from officials in the State Department on a large number of the issues we have raised with them. They have indicated, for example, their desire to continue all existing treaties and agreements in force, except the Mutual Defense Treaty, with no prejudice against renewal or renegotiation because of the new political situation. As other examples, they advised us of their intention to continue MFN, GSP, Ex-Im Bank loans, and OPIC guarantees—an item incidentally most important in the current uncertain political situation. Visas for businessmen, they have said, would continue to be processed expeditiously under the new arrangements and those businessmen and officials on both sides involved in commercial affairs would have access to government officials in both countries. These are important examples of issues that concern American businessmen, and the responses have for the most part been encouraging.

JAPANESE EXAMPLES

I noted—I am ad-libbing this now, not from my prepared talk—that the Japanese example has been cited here and certain questions have been asked. The Japanese Government operates very differently than we do, and it is true that the trade and development with the ROC has gone along and increased since normalization with the People's Republic.

However, they have had some difficulty in their arrangements. I just returned from Taipei where I had a visit with President Chiang and Prime Minister Sun, and I was told that in the last meetings between Taiwan and Japan, there were 29 Japanese Government officials present at a meeting, with ROC officials including high officials from the foreign office, from the Miki, and other cabinet positions in Japan.

Now, as I understand it here the American Institute will operate somewhat in that way. There will be negotiation government to government, as in the textile area or in any of the other areas. Someone from Taipei will be in Washington and they will have their discussions with the counterpart organization, and then when the final agreement is reached, the signing or the official action will be taken by this "unofficial" Institute, this so-called people-to-people arrangement, and that then would apparently have the binding effect.

I am confident that you as Congressmen and Congresswomen are asking many of the same questions we have been asking, and hopefully the record of these hearings and subsequent legislation will help to improve the psychological atmosphere, not only among American businessmen, but among their commercial partners on Taiwan as well. Doubt or uncertainty on such questions serve to delay, postpone, or to cause business to decide not to take the risk.

ASSURANCES ON SECURITY FOR TAIWAN

U.S. business firms will, of course, be anxious to see what assurances are given on Taiwan's security to replace the Mutual Defense Treaty. U.S. policy on the supply of arms, as a related matter, will also influence their judgment regarding future stability and security. The outcome of legislation in this area will be important not only to those firms investing on Taiwan, but to those engaged in long-term planning for export-import programs, construction engineering, banking, shipping, airline activities, and so forth.

IMPACT ON CONTRACTUAL RELATIONS

Businessmen are also concerned with the impact that our strictly unofficial ties with Taiwan will have on contractual relations with both private and Government firms in that country. A number of our members are perplexed over the security of contractual obligations under conditions where the United States is dealing with "the people of Taiwan" as opposed to the Government of Taiwan. It appears from some of the key documents that the ROC Government has no identity. I sincerely hope that there will be legislation to allay these concerns. Business must be assured of their contractual obligations, including their loans to Taiwan, and their ability to fulfill their business obligations in both countries.

SAFEGUARDS ON LOANS AND OTHER CONTRACTUAL OBLIGATIONS
AND ASSETS

I am informed that several U.S. law firms do not believe that the proposed omnibus bill adequately safeguards both loans of U.S. banks and other contractual obligations. I presume such firms will be consulted by the committee. The legal status of loans, assets, and contractual obligations should be clarified by legislation.

Having had some experience in banking, I am also troubled by questions regarding the security of Taiwan's deposits in U.S. banks as well as other ROC assets. This concern also relates to the omnibus bill. Commercial relations cannot survive in an atmosphere where there are doubts as to whether the ownership of these assets might be challenged in the courts or where there would be limitations on the ability of Taiwan's banks to freely move these funds within the U.S. banking system. There are large amounts of money involved. The Republic of China currently has foreign exchange reserves of over \$6 billion; 85 percent of these holdings are in U.S. dollars. The ROC also has over \$4 billion in foreign debt, of which 70 percent is held in the United States, either by the Export-Import Bank or private holders. Questions regarding the security of these deposits have been raised in part because of the absence of any reference in the omnibus bill to the Government on Taiwan. We have had encouraging assurances from State Department officials regarding the security of these funds which they feel is provided by the omnibus bill. In my view, it is most important that this judgment be confirmed by the Congress in a way which will provide the necessary legal protection.

DIPLOMATIC PRIVILEGES AND IMMUNITIES

Legislation granting the substance of diplomatic privileges and immunities to the authorized representatives of Taiwan now being considered by this committee will do much to strengthen commercial and business ties between our two countries. I am informed also that such legislation would give legal strength to the control by Taiwan of bank accounts and assets. It is understood that Taiwan is prepared to grant such privileges and immunities on a reciprocal basis.

A more general concern is that while we are currently full of good intentions to protect Taiwan's commercial position, we know that governments have short memories. There is the danger that over time this position could erode through neglect, through growing political disinterest, and perhaps through outside pressures. If, for example, U.S. pressures were applied to encourage Taiwan to negotiate what it considered an unfavorable international political agreement, this could be a first step toward what many in the U.S. business world would consider an undermining of Taiwan's basic security and independence.

BOYCOTTS

As another example, if there were boycotts or other pressures impacting against Taiwan's economic relations with the United States, this too would be damaging to Taiwan and to the U.S. business interests as well.

Or, as a final example, if there were outside political pressures disturbing China airlines' arrangements with the United States—similar to the situation China airlines experienced in Japan—this would also be viewed by U.S. business as an unfavorable portent of the future unless the U.S. Government moved to counter these pressures.

Again I am pleased to say that officials in the State Department have been encouraging on the foregoing issues and have said they would be sensitive to concerns of American business. In the event of situations such as I have described, the State Department officials have said they would react to protect U.S. interests. It is also important, however, that U.S. companies be assured of congressional attitudes through the record of the hearings and through appropriate legislation. It also might be well to have a reporting mechanism so if any of those problems or pressures developed they would be called to the attention of Congress.

IMPORTANCE OF LEGISLATION

I fully share the administration's view of the importance of moving quickly to establish the legal underpinnings for our new pattern of business arrangements to insure that there will be no discontinuity in our commercial relations. At the same time, I hope that serious consideration will be given to providing the legislative assurances required to insure the continuing vitality of our commercial relations—an objective to which the President himself has assigned considerable priority.

At this point, Mr. Chairman, I would like to request permission to leave with you, for the record, statements prepared by two of our members who are heavily engaged in business activities on Taiwan. The statements by H. O. Reinsch, president of Bechtel Power Corp., and

Alexander Matiuk, president of Gibbs & Hill, represent their own views of some of the major issues in question. And a third one I have not given to you, that is on its way here, is by E. A. Carter, who is chairman and chief executive officer of Oak Industries, and has a substantial investment on Taiwan.

Mr. Chairman, let me thank you for your patience in listening to this which you could have read, I am sure.

Chairman ZABLOCKI. Thank you, Mr. Ambassador.

Without objection the documents and the statements by Mr. Reinsch, Mr. Matiuk, and Mr. Carter will be made a part of the record at this point.

[The statements of Harry O. Reinsch, president of Bechtel Power Corp.; Alexander Matiuk, president, Gibbs & Hill, Inc.; and E. A. Carter, chairman and president of Oak Industries, Inc., follow:]

STATEMENT OF HARRY O. REINSCH, PRESIDENT, BECHTEL POWER CORP.

My name is Harry O. Reinsch, I am president of Bechtel Power Corp., one of the three principal operating Bechtel companies.

A large portion of Bechtel's business is to provide engineering, procurement and construction services for the energy-related industries, including oil production facilities; coal, oil and gas pipelines; refineries; LNG facilities; hydroelectric plants; mining facilities; uranium enrichment plants; nuclear fuel reprocessing plants; as well as fossil and nuclear power plants.

Both the short and long-range commitments of the United States to Taiwan are very important to the economic well-being of our country. Therefore, I very much appreciate the opportunity to present to you my views as a businessman on the proposed Omnibus Bill for governing the relations between the United States and Taiwan. I am not lobbying for any particular bill, nor for specific language in the bills.

The Bechtel organization is currently providing engineering, procurement and other services on four nuclear units for the Taiwan Power Company. We started engineering on the two Kuosheng Nuclear units in 1972 with scheduled completion in 1981 and 1982. In 1976 we commenced work on the two Maanshan Nuclear units that will be completed in 1983 and 1984. These and other overseas projects have a significant impact on both jobs in the United States and on exports.

For example, the continuation of these projects and the six additional nuclear units now contained in the Taiwan Power Company's plan will conservatively generate 12 to 15,000 jobs a year in the United States for the next 8 to 10 years. Thus, we would expect the eight nuclear units to generate a minimum of 200 million man-hours of work for U.S. engineers, factory workers, and others through indirect support.

Our experience on the Kuosheng Nuclear Project indicates that these jobs are not created in only one region of the United States. Fifty percent of the manufacturing was awarded to companies in 13 states, with the balance of work being accomplished in 24 other states. The first 13 are comprised of California, Illinois, Missouri, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Vermont and Wisconsin.

If that work is awarded on a competitive basis, the list of states receiving large orders would vary between projects. States not shown obtaining large orders on one project could appear on another project. In all instances, we would expect involvement of 37 or more states.

Following completion of these nuclear units our industry will continue to provide jobs for the next 40 years as each nuclear unit will require replacement equipment, materials and fuel to be provided from the United States.

There are many other major design and construction opportunities for United States companies in Taiwan. Those being discussed for the near future include:

Oil and Gas.—Refinery expansion, new and expanded petrochemical facilities, offshore explorations and development, and pipelines.

Non-nuclear Power.—Fossil fuel powerplants and hydroelectric projects.

Heavy Construction.—Rapid transit, new communities, industrial complexes, airports, harbor improvements, highways, and railroads.

Metal and Non-Metallic.—Copper refineries, steel mill expansions, aluminum refineries and cement mills.

Each of these projects when awarded to a United States firm will require the export of U.S. manufactured equipment and materials. Exports create jobs both directly through the employment created in manufacturing plants, and the industries and services which support them, and indirectly through expenditures of salaries in retail stores, service stations, banks, and so forth, throughout the nation.

In 1978, the United States imported goods worth approximately 5 billion dollars from Taiwan, and exported slightly less than half that amount. The current nuclear projects and the six future units, if lost to the U.S., would increase the balance of trade deficit by another 500 million dollars each year for the next 10 years. The value of the nuclear fuel, replacement equipment and materials required for the life of these plants would also be lost.

To better position ourselves to capture work in Taiwan, the Bechtel Power Corporation and Sinotech Engineering Inc. of Taiwan recently formed a jointly owned engineering and construction company in Taiwan called Pacific Engineers and Constructors, Ltd. We expect this company to begin negotiations in the near future on two new nuclear power units and to pursue projects involving hotel, mass rapid transit, and petroleum and chemical facilities. Other firms are positioning themselves to obtain additional work in Taiwan, thus assuring U.S. involvement and the creation of jobs in the United States.

I hope the legislation you are now considering will make it possible for U.S. firms to continue to do business in Taiwan. In order to assure the ability of the Taiwan companies with whom we do business to pay for our goods and services, the legislation must protect the financial assets and property—regardless of location—of those companies. The language of the legislation must ensure that our present and future contracts will be considered legal documents in U.S. Courts of law.

We further hope that this legislation will not only protect our investments in Taiwan, but also our business people who will be stationed there for the next 10 to 20 years. Such legislation is clearly in the interest of the people of the United States.

BIOGRAPHICAL BACKGROUND

Harry O. Reinsch is president of Bechtel Power Corporation and a member of the boards of directors and the executive committees of the Bechtel organization's three principal operating companies—Bechtel Power Corporation, Bechtel Incorporated, and Bechtel Corporation.

Reinsch is the responsible senior officer for Bechtel's San Francisco Power Division, Los Angeles Power Division, and Gaithersburg Power Division.

The San Francisco-based Bechtel organization has provided professional engineering, construction and management services in some 100 countries on all seven continents.

Reinsch is a 28-year Bechtel veteran, whose early construction assignments included numerous power projects across the nation.

For five years prior to 1968, Reinsch was manager of the Washington Area Office at Gaithersburg, Maryland. During that time the staff and workload increased from twenty persons and a single project to more than four hundred persons working on twenty-four projects in the fossil-fuel and nuclear power fields.

Reinsch was elected a vice president in June, 1968, serving as manager of division business development for the Power and Industrial Division from February, 1968 to September, 1971. He was named deputy division manager in August, 1969.

Reinsch was appointed division manager in January 1972, elected a director in July 1972, and elected senior vice president in October 1972. He was elected an executive vice president in August 1973, and served as the first general manager of the Thermal Power Organization from January of that year until his election as president of Bechtel Power Corporation in May 1975.

Reinsch was born in Los Angeles and attended the University of California at Davis. He is a member of the American Society of Civil Engineers and the American Society of Mechanical Engineers. Commencing in 1977, he was re-elected to a second three-year term as a member of the board of directors of the Atomic Industrial Forum. Reinsch is a member of the National Labor-

Management Committee, where he chaired the negotiating committee for the Nuclear Power Construction Stabilization Agreement. He is an advisory director of Wells Fargo & Co., and Wells Fargo Bank. He is a member of the executive committee and is an executive director of the US/Republic of China Economic Council. Reinsch is a director of the California Council for Environmental and Economic Balance.

He is a member of the Pacific Union Club, the Banker's Club of San Francisco, the St. Francis Yacht Club, the Olympic Club, the World Trade Club, and the Capitol Hill Club.

GIBBS & HILL, Inc.,
New York, N.Y., February 4, 1979.

Re a bill to promote foreign policy of the United States of America in re the People on Taiwan.

SENATE FOREIGN RELATIONS COMMITTEE.

HOUSE INTERNATIONAL RELATIONS COMMITTEE.

GENTLEMEN: My name is Alexander Matiuk, practicing professional engineer for over 40 years, President and Chief Executive Officer of the 2200-person heavy engineering and constructor firm of Gibbs & Hill Inc., headquartered in New York since its founding in 1911.

I arrived in Taiwan a few days ago expressly to mend and strengthen business fences with my company's clients and associates as a result of the political storm generated by our government's December 15 statement. On learning of Mr. David Kennedy's departure today from Taipei for the States to participate in the Congressional hearings regarding the proposed Bill relating to Taiwan, I have asked him to present this letter as my statement to the Senate Foreign Relations Committee and to the House International Relations Committee, since I shall still be in Taiwan on my special mending mission.

Our company's projects are mainly in the electric power generation and transmission field, but with specialization also in mass transportation, railway electrification, architectural and urban development; and plant, test and operations and maintenance of power, industrial and other complex facilities. About 65 percent of our services are performed in USA and the balance for clients in the Far East, Middle East, Latin America, No. Africa and Western Europe. Our firm has served Taiwan Power Company in project planning and engineering and construction services since 1952—a time span of 27 years—on at least fifteen electric power generating units now in service, as well as the design of power facilities for the first integrated steel mill in Taiwan, now operating, for China Steel Corp. At least seven additional large power units are currently in various stages of construction, design or initial planning by Gibbs & Hill for Taipower; and additional projects are continually being planned for authorization, to keep pace with Taiwan's economic growth.

OPPORTUNITIES

In the years of our own association, and the association of other USA power engineering firms and USA manufacturing and fabrication companies on work for Taiwan, billions of US dollars of goods and services have been purchased by Taipower from USA. The pace is accelerating—or at least has been up to the moment of our government's mid-December statement concerning recognition of the People's Republic of China. Apart from other technical fields, just concerning Taiwan's power program, of interest to Gibbs & Hill and its competitors, there will steadily be authorized projects whose cost will aggregate 10 to 12 billion dollars in the course of the next few years. About 60 percent or more of this amount must be imported to Taiwan in the form of equipment and services. USA industry and engineering companies are capable of meeting all these needs.

This work translates into tens of thousands of jobs per year for USA industry, with consequent overall economic-social benefits to our country. Equally important, however, is the ongoing opportunity for Taiwan and USA to remain as trading partners and as nations in close dialogue and understanding—essential to the enhancement of peace in this intimately interconnected world of nations. Already, Taiwan is our eighth largest trading partner, that trade amounting to slightly over 7 billion dollars in 1978—the result of a hardworking, free-enterprise business system wisely established by the government of Taiwan during the last 30 years, from the great American model.

GENERAL REACTION

As an American proud of my country's heritage but troubled today by the judgment of some of my national leaders, and as head of a large organization which meets its financial and other duties to its government, its obligations to its clients and to its employees and strives to be a constructive world-citizen, I consider that there are aspects of the proposed Bill which need clarification and reinforcement. As the draft stands (the version issued with President Carter's memorandum of January 26, 1979), I believe we shall have a nicely-intended but confused and possibly ineffective measure without clear force.

PARTICULARS

1. In behalf of the proposed Bill, it can be said generally that its spirit and apparent intent are laudable.

2. However, the Bill's weakness is compounded by the conception, oft repeated, of "the people on Taiwan". It might be stated just as accurately that the vast bulk of the people of USA are "the people on part of North America". The problem here is not one of pride of identification or primarily preservation of sovereign designation, but rather a distinctly legal one, I think. If "the people on part of North America" or particularly any American business or other entity, for instance, were to require legal recourse for some claimed relief on Taiwan, who specifically would be the legal entity there, now entitled "the people on Taiwan"? The problem is complex if an American business firm has to attempt to contend with an indistinct, undefined, legally inexact "mass" addressed as "the people on Taiwan".

I appreciate the international, political charade and word-playing being protracted in the Bill as a result of our Government's overanxious and inept bargaining skill in this situation, but that appreciation does not help clarify the basic question. I think American business—not to mention our governmental entities—will be beset with a tangled legal knot in trying to identify a central government authority for administrative needs, but instead being confronted with "the people on Taiwan". Patience, caution, goodwill and good luck may ultimately provide solution to individual problems, but probably with no thanks to the support of our government later or to its Bill as now proposed.

3. The American Institute in Taiwan is, in general, a possibly workable concept. However, that will depend on powerful and dedicated AIT leadership and management, unrelenting direction of its efforts, unstinting cooperation by other heretofore involved agencies which will probably promptly have to be called on for administrative and technical support, adequate staff of proper experience and attitude, and adequate budget.

The White House, having created the new situation, will have to establish truly effective means to ensure that the AIT mode of operation is at least as successful, on all fronts between USA and Taiwan, as in the years prior to January 1, 1979.

There now exists, I understand 55 to 60 treaties, agreements and other special arrangements between USA and Taiwan, Republic of China. Surely additional ones will be required in future, especially if, as our Administration vows, our purpose is not merely to maintain but even enlarge trade, cultural, technological and other relations between our two countries. The existing relations have been conducted and implemented on a day-to-day basis by numerous departments, agencies and other discrete bodies in our government. Now it is proposed that this whole established, working network be somehow centered in the American Institute in Taiwan. I think no further comment need be made to underscore the critical importance of having this new system work effectively, and not become a ponderous bottleneck impeding the mutual gains otherwise (as heretofore) available to business people in USA and their counterparts in Taiwan. Furthermore, serious bottlenecks and delays would impair Taiwan's well-being and total strength relatively much more than USA's, thereby possibly playing Taiwan into the anxious hands of the People's Republic of China. Surely this is not the sinister purpose of USA. Hence the Congress must ensure proper safeguards and monitoring to avoid an inadvertently American-designed tragedy for the friendly country of Taiwan, until recently our ally for 30 years.

4. Among a few of the specifics relating to the interests of U.S.A. engineering and manufacturing firms doing business with Taiwan's electric power industry, we underscore the absolute need to avoid any current slowdown and for continued expediting (as was the case prior to the end of 1978) in the prompt

processing of export licenses; constructive, timely response by the Export-Import Bank to permit proper expansion of Taiwan's power system; arrangement for nuclear fuel supply to the well-conceived nuclear power program of Taiwan as a long-term antidote solution to critical, expensive oil importation; and in the overall, maintaining and even accelerating the momentum of business development which we Americans had found it so feasible to nurture by mutual hard work and conscientious efforts with our Chinese friends in Taiwan.

SECURITY

I must also observe—although the proposed Bill is of course silent on the matter—that in this troubled, changing and opportunistic world, USA and Taiwan cannot merely assume that Taiwan is militarily secure (safe) from the PRC. As our Administration has stated, its "wish to reduce the danger of international military conflict" and its continuing "to have an interest in the peaceful resolution of the Taiwan issue", are hardly realistic assurance of security to a successful nation of 17 million people, our friends for three decades, whom we now categorize as a non-nation and have used as a bargaining chip at an international gaming table. The PRC response, as declared by its responsible leadership, is non-committal, Delphic in nature and conveys tones of independent action and possible threat.

U.S.A. having jeopardized the security of Taiwan, the Congress must now address and rectify this matter if world-peace is to be enhanced and rights of humans be safeguarded to preserve their hardwon gains and established well-being—Taiwan being one of the world's outstanding examples of achievement among developing nations.

CONCLUSION

As a responsible American businessman, quite realistically attuned to our country and to the rest of the world, I urge the Congress, which thinks for itself but must of course reflect its thoughtful constituency, to consider that, in the light of our history with Taiwan, our highest goal must be to retain sound, friendly, sincere relations with Taiwan, enabling that country's people to continue their healthy growth, maintaining a sense of stability and high regard toward us, and mutually,—as heretofore.

Our Administration and the new legislation must support and not hinder U.S. business and government interests in Taiwan, and not with hat-in-hand attitude, as if we must bow to the PRC.

The smaller physical size of Taiwan makes it no less a reality than the immense dimensions of the PRC, and especially when evaluating the enormous accomplishments of Taiwan compared to PRC. If we expect to strengthen the world's structure of international cooperation, with consequent enhancement of world peace, here is a ready challenge to the statesmanship and craftsmanship of our Congress and our total American political system. Congressional deliberations of the proposed Bill, and other actions the Congress may take, will be precedent-setting. America is anxiously waiting.

I wish you the Almighty's much-needed gift of discernment and wisdom in this hour.

Sincerely,

A. MATIUK,

Member, U.S.A.-ROC Economic Council.

STATEMENT OF E. A. CARTER, CHAIRMAN AND PRESIDENT OF OAK INDUSTRIES INC.

I am grateful for the opportunity to express my views and concern on a matter I consider to be of national and international importance. I represent no government, no vested point of view and no organization.

I feel justified in the conviction, however, that I speak on behalf of our total national interest in saying that a viable and understandable formula for the continuance of our relations with Taiwan must be found and that it has not yet been found or at least not enunciated by the Administration.

I have been closely associated with the various nations of the Far East for 20 years¹ and I believe that neither impartial businessmen nor scholars nor,

¹ A description of Oak Industries' involvement in the Republic of China is attached to this statement.

for that matter, politicians, with similar experience will take issue with certain basic truths.

The relationship between United States and Taiwan has, ever since the Second World War, accorded with the political and economic principles Americans hold dearest. Relationships have been continued on the basis of political respect and economic reciprocity. The results have been mutually beneficial to the extent that Taiwan is celebrated as the world's outstanding example of progress from impoverishment through endogenous economic development to a position of relative prosperity.

With our encouragement, Taiwan has followed the course prescribed by us for all of the under-developed nations of the world and proven the rightness of our views.

While normalization of relations with Communist China may be, as President Carter says, merely the recognition of realities, another reality begs for equal recognition. Upon this other reality depend perhaps the future of Taiwan and the course of our relationship with the other nations of the Pacific Basin.

The reality is rooted in the fact that the United States will have, at least in formal terms, withdrawn from the government on Taiwan our recognition of its existence and our inclusion of it within the perimeter in which we have through treaties guaranteed political and military stability. The rhetoric of the Communist Chinese government since its inception has not abated and its recent constitutional amendment confirms their determination to "liberate" Taiwan. This is a threat—a threat to the peaceful coexistence of all nations in the area, a threat to the people of Taiwan, a threat to economic inter-relationships in the area and a threat to American business.

Our reaction to this threat is the bland statement, conceived in self-deception, that it is unlikely that Communist China will implement this threat in the foreseeable future. I think it obvious that our fundamental interests are too deeply involved to rely on completely unsubstantiated hopes. If it is true that we cannot have normalization of relations with Communist China without renouncing the Security Treaty, it is also true, I believe, that nothing prevents us from unilaterally, by enactment of Congress, declaring our determination to defend Taiwan in the event of external aggression exactly as we would under the terms of a Mutual Defense Treaty and to supply to the government of Taiwan the American-made modern weaponry *required* for its defense in the same way that we do for so many other nations.

If the first requirement is defense, then the second requirement is the structuring of a predictable legal framework that will enable the continuance of the beneficial economic relationships that our two nations have enjoyed. It is within the Constitutional power of the Congress to provide answers to the several questions that exist.

In consideration of the Omnibus Bill, it must be declared that all of the inter-governmental treaties and agreements, except for the Mutual Security Treaty, remain in force and will be given full faith and credit by the courts of this country. Secondly, it can be declared, by the Congress, that to the extent recognized principles of international law are applied by United States courts, they will be applied to matters involving Taiwan in the same way as if Taiwan were enjoying full diplomatic recognition.

I urge a confirmation by the Congress that in other matters as well Taiwan must be treated as a fully recognized de jure government so that, to cite one example, the full force of our antiboycott legislation and practice will be brought to the aid of American companies caught in this predictable predicament.

It is important to know that Ex-Im Bank financing and OPIC coverage will continue to be made available to the extent that Taiwan qualifies on grounds other than those of diplomatic recognition and de jure existence.

There are a host of questions like this, all of which have been adumbrated and all of which can be resolved satisfactorily by the passage of proper legislation. I urge on you full consideration of these matters and proper and specific approach to each which will allow the continuance of a relationship that has been beneficial economically to the United States and which has resulted in the development of an eminently successful Third World Country which has been by our own prescription.

We deal in concepts. The concept of recognition, the distinctions between de jure and de facto, and these are lawyerlike and useful. But let us here heed the injunction of President Carter to perceive realities. The reality is that the govern-

ment on Taiwan continues to exist as before, and this it is undeniably in the interests of the American people to continue our relationship with that government and that people as before; that the relationship is now threatened; that Congress can, however, reintroduce the necessary degrees of predictability and stability to allow that relationship to continue.

I strongly urge this perspective on all of you.

All of this leads to one final conclusion—and proposal. The businessmen who have directed manufacturing operations, trade activities and investments in the Republic of China on behalf of their American companies are a valuable source of knowledge and counsel who could be of great assistance to the Congress in insuring that whatever legislative actions are taken effectively serve the interests of all Americans. May I recommend for your consideration that the U.S.A.-Republic of China Economic Council, representing a cross-section of American business interests, be invited to serve as an advisory body to the House Foreign Affairs Committee and the Senate Foreign Relations Committee.

NOTE: This statement also has been delivered to the Senate Committee on Foreign Relations.

OAK INDUSTRIES INC.

Oak Industries Inc., with principal headquarters in Crystal Lake Illinois and San Diego, California, is an international producer of components, controls and materials for a variety of markets and is the majority partner in National Subscription Television, the largest over-the-air pay TV operation in the world. Total company revenues for 1978 were approximately \$192 million. The company is listed on the New York & Midwest Stock Exchanges.

Oak Industries, which employs more than 2,000 people in Taiwan, has manufacturing operations encompassing 180,000 square feet of factory space. It has been engaged in business in the Republic of China since 1971. The principal products manufactured by Oak in Taiwan include laminates for the electronics industry and converters and decoders for cable television systems and for Oak's growing over-the-air subscription TV services. Recently, Oak announced its intention to invest \$2.5 million in an expansion of the facilities in Taiwan, which will include a 25,000 square plant addition and new production lines.

Chairman ZABLOCKI. Mr. Ambassador, I gather from your statement that despite the fact that you are pleased that the State Department and other Government officials have given you assurances of their concern of the problems that our American businesses might face, and you do recommend that the omnibus bill be acted upon expeditiously by Congress, you have some serious reservations whether the omnibus bill is adequate.

Mr. KENNEDY. I think, Mr. Chairman, that there has to be something in the way of security provisions. This is not in the omnibus bill. Businessmen will not invest or do business if they are concerned about the security of Taiwan, the supply of arms and the problem of keeping the arms up to date.

I understand that this question is being considered by the Congress, and hopefully you will give assurances that will be effective. On the question of the omnibus bill, the intentions are there. It must be made certain that its provisions will be effective. If certain issues go to court there must be somebody to be sued and somebody to sue. People to people can't do it. You can't have 17 or 18 million people do it, or 200 million. The attorneys should look into that.

I cite those problems as examples for this Congress to look into. I have the confidence, if it is the intention that we continue these relationships and expand them—and they are important for our economy, our own selfish interests, they are very important—that we can put language in the bill that will not be unacceptable from the standpoint of the White House and will protect our interests.

Chairman ZABLOCKI. We are all familiar with the statement that the way to hell is paved with good intentions.

Mr. KENNEDY. That is right, that is why I would like to see these provisions in the legislation.

CONSULTATIONS ON PROVISIONS OF BILL

Chairman ZABLOCKI. Mr. Ambassador, in view of your long and distinguished record, and particularly as Chairman of the United States-Republic of China Economic Council, were you consulted on the provisions of the omnibus bill in reference to the question regarding adequate safeguards?

Mr. KENNEDY. No, I was not consulted on the bill as such. Immediately after the President's announcement on December 15 I came to Washington and met on Monday with the officers of the State Department, including Secretary Vance, and we went into this and gave them a long list of questions. We had a discussion on all of those items. We were trying to find a way for example to insure that Taiwan would have Ex-Im Bank credit, OPIC guarantees, most favored nation treatment—those kinds of things. These discussions were after the fact, though several council members had met a couple of months earlier to discuss what some of the elements of normalization might be if normalization were to occur.

Chairman ZABLOCKI. Because of the seriousness of this matter I would suggest that the executive branch has erred in not seeking consultation and advice from those who are most knowledgeable about some of the pitfalls that legislation such as the one we are now considering might befall.

You have mentioned in your statement that some law firms have studied the omnibus bill and that they have serious questions. I presume such firms will be consulted by the committee. Since we are pressured to move quickly, certainly we cannot expect that the executive branch will provide us the list of those law firms, but you could. Can you, in order that we may indeed consult with such firms, supply the names of the law firms that have made such studies?

LEGISLATIVE SUGGESTIONS

Mr. KENNEDY. I would be glad to give you some names, Mr. Chairman.

Chairman ZABLOCKI. You rather anticipated my next question. You hope that there would be some provision in this legislation to allay these concerns. Have you suggested language for the committee's consideration, Mr. Ambassador?

Mr. KENNEDY. I have not proposed any specific language for the legislation. I think that there could be some suggestion made on specific items that would help, but I am not prepared today to do that. Maybe by the 15th.

Chairman ZABLOCKI. May I repeat my earlier question. Can you supply the law firms and share them with us?

Mr. KENNEDY. I can give you, Mr. Chairman, some names of lawyers and firms. I will be glad to do that.¹

¹ Mr. Kennedy supplied the names requested, and the list is on file with the committee.

Chairman ZABLOCKI. Would they be in a position to make suggestions as to how the legislation can be improved?

Mr. KENNEDY. They should be. I don't know.

Chairman ZABLOCKI. You would be doing the committee a favor if you would advise them that we are anxiously looking for suggestions for improving the legislation.

Mr. KENNEDY. I will try to do that by the 15th, if that is agreeable.

Chairman ZABLOCKI. This is the role of our committee and this is the reason for the hearings. We will make haste slowly. It is a very important piece of legislation. We do want to see that there will be a continuity in this very difficult period. We want certainly to see that Taiwan will be secure, economically viable and that our trade and our relations will continue as the executive branch has promised, and if we put it in legislation there is no question about the intentions.

Thank you very much, Mr. Ambassador.

Mrs. Fenwick.

Mrs. FENWICK. Thank you, Mr. Chairman.

VALIDITY OF CONTRACTS AND SAFETY OF BANK DEPOSITS

As I understand it, the validity of the contracts and the safety of the bank deposits are the two main concerns.

Mr. KENNEDY. That is right. They want to be sure when they have a contract that it is a valid contract.

Mrs. FENWICK. But we have antiboycott legislation that would, that could be used, have we not? If the People's Republic of China started boycotting our firms?

Mr. KENNEDY. And on the trade bills there you have an opportunity to do something.

Mrs. FENWICK. And our businesses are aware that they have that protection.

Mr. KENNEDY. Yes. I think the worry of businessmen now would be indirect pressures that might expand into more direct pressures. We have taken a positive attitude that if the People's Republic of China is seriously trying to open up, then they must open up and permit two-way business.

INVESTMENT IN TAIWAN

Mrs. FENWICK. When Teng Hsiao-p'ing was here he said he hoped businesses would continue to invest in Taiwan. Did you hear that? He said it openly.

Mr. KENNEDY. That is right, and I think business will continue to invest in large figures if all of these assurances are in your legislation.

Mrs. FENWICK. How would the business community react if at some future date the government on Taiwan should decide that they would be satisfied with some position of very wide autonomy, such as Teng Hsiao-p'ing said he was prepared to offer within the government of Peking? How would that strike the business community? Depending on the terms, I suppose.

Mr. KENNEDY. It would depend on the terms and, of course, what the economic forecasts were and business conditions in the United

States at that time, and many other factors. But I don't think that would be a serious matter with them.

Mrs. FENWICK. Thank you, Mr. Chairman.

Chairman ZABLOCKI. Mr. Ambassador, our chief of staff just called to my attention that just today we received a statement from the firm of Kilpatrick, Cody, Rogers, McClatchey & Regenstein. Is this one of the firms you had in mind?

Mr. KENNEDY. That was not one of the firms I have been involved with, but Mr. Parker, who is chairman of the American Chamber in Taipei, is a lawyer and represents a law firm. He has testified before the Senate Foreign Relations Committee. He is in town and I think we could get him to prepare and submit a statement.¹

[Executive branch comments on Mr. Parker's statement follow:]

STATE DEPARTMENT VIEWS ON TESTIMONY OF ROBERT P. PARKER

DEPARTMENT OF STATE,
Washington, D.C.

HON. CLEMENT J. ZABLOCKI,

Chairman, House Foreign Affairs Committee, House of Representatives.

DEAR MR. CHAIRMAN: On February 15, 1979 Mr. Robert P. Parker testified before your Committee on the Taiwan omnibus legislation. He raised a number of questions. We are pleased to provide answers.

1. Several major American-owned companies in Taiwan export products or components to the U.S. under MFN or generalized system of preferences ("GSP"), both of which by law are restricted from application to most communist countries. Since the U.S. has recognized the Peking government as the sole legal government of China, including Taiwan, these companies are uncertain whether Taiwan might be deemed part of the "People's Republic of China" for this purpose.

Taiwan will not be deemed part of the People's Republic of China for purposes of MFN and GSP. Under both the December 30, 1978 Presidential Memorandum and the omnibus legislation, the executive branch will continue to afford Taiwan most favored nation (MFN) treatment and allow products from Taiwan to enter the U.S. under the generalized system of preferences (GSP).

2. Such exporting companies also cannot be sure, under the proposed legislation, whether exports from mainland China might be combined with those of Taiwan in determining whether GSP limits or quotas under outstanding orderly marketing agreements have been exceeded.

Exports from the PRC will not be combined with those of Taiwan in determining whether GSP limits or quotas under orderly marketing agreements have been exceeded.

3. Insurance contracts written by American insurance companies generally exclude coverage in communist countries. If such contracts are litigated in U.S. courts, would this exclusion be deemed to apply in Taiwan?

It is our position that such an exclusion should not apply in Taiwan, and we do not believe that a U.S. court would find to the contrary. (See discussion under Question 1.) The proposed legislation provides that for purposes of U.S. law the term "foreign country" includes the people on Taiwan. It also directs U.S. courts to look to the laws actually applied on Taiwan to determine whether Taiwan is a "Communist country."

4. Relations between U.S. and Taiwan companies, like all commercial relationships, are subject to potential claims and disputes. Unless a satisfactory mechanism for the resolution of such disputes is available, commercial relationships will be seriously impeded. Under the proposed bill the enforceability in U.S. courts of judgments entered by courts of the R.O.C. is highly doubtful, but reciprocity is a basic requirement under R.O.C. law for the recognition and enforcement of U.S. judgments in Taiwan.

¹ The statement of Robert P. Parker appears in the printed hearings of the Senate Foreign Relations Committee of Feb. 2, 1979.

The January 1, 1979 recognition of the Government of the People's Republic of China was not intended to affect, nor do we believe it did affect, the enforceability in United States federal and state courts of judgments rendered by the courts on Taiwan. We have so informed private litigants. We believe that the courts in Taiwan should continue to give effect to decisions of U.S. courts, on a reciprocal basis.

5. Billions of dollars in currently outstanding credits by U.S. banks have been borrowed or guaranteed by the R.O.C. government, usually under contracts governed by U.S. law. How can American banks or the sellers of major U.S.-made capital goods safely transact such business in the future without knowing the capacity under U.S. law of the government of the R.O.C. to enter into and perform such contracts?

The authorities on Taiwan retain the right to enter into and perform contracts with private corporations and persons in the U.S., and to sue or be sued in our country. The proposed bill provides that:

"No requirement for maintenance of diplomatic relations with the United States, or for recognition of a government by the United States, as a condition of eligibility for participation in programs, transactions or other relations authorized by or pursuant to United States law shall apply with respect to the people on Taiwan."

This applies to decisional as well as to statutory law, and removes the only possible barrier to the right to sue.

6. Similarly, many contracts between U.S. corporations and the R.O.C. government require the R.O.C. to designate an agent for service of process in the U.S. Under the proposed bill it seems doubtful whether the R.O.C. government has the capacity to sue and be sued in the U.S. courts. Unless the American parties to such contracts can be assured of their ability to sue the R.O.C. here, in an event of default, for adjudication by the courts most familiar with the U.S. law which governs almost all such contracts, the willingness of American companies to enter into such previously attractive transactions will certainly diminish.

See answer to Question 5.

7. American companies which have or are contemplating contracts with the R.O.C. government are confused by the State Department's insistence on using the meaningless term "the people on Taiwan" and on denying the fact that the R.O.C. government is a government. They do not comprehend how a guarantee or other contractual provision could be enforced against "the people on Taiwan" and fear that the State Department may inadvertently be creating defenses to the effect that the creditor should look to the PRC, as the "successor government" under U.S. law, for satisfaction of such claims.

Moreover, contracting in the name of a nongovernmental entity established by the R.O.C. (under State Department duress) would not be an acceptable substitute, since that entity would have few, if any, assets. Certainly it would not own the foreign exchange reserves of the R.O.C. treasury, which to the American party provide the real security in any such undertaking. Clearly, then, the R.O.C. government should for commercial purposes have not only the ability to contract, sue, and be sued, but to do so in its own name.

As noted above, under the omnibus bill, the people on Taiwan have the right to contract, sue, and be sued in the name of "the people on Taiwan". Contracts made prior to December 31, 1978 in the name of the Government of the Republic of China will not be enforced in regard to the people on Taiwan. The people on Taiwan cannot, however, enter into agreement or maintain official relations with the Government of the United States.

8. The profitable relationship U.S. banks have had with Taiwan, both in loans and deposits, will be jeopardized if the R.O.C. cannot be assured that its funds and other property in the United States are immune from attachment by third parties, whether they be private claimants or the Peking government. The R.O.C., like other governments, customarily waives its sovereign immunity for the purpose of certain specific transactions, such large borrowing, but it must first have the assurance of such immunity before it will be willing to keep its deposits with U.S. banks, and in order for the banks to have the credit security such deposits represent. Absence of sovereign immunity would severely restrict commercial and financial relations between the U.S. and Taiwan, but the proposed legislation does not clearly provide for it and statements made by officials of the State Department on the point have not been reassuring.

The Foreign Sovereign Immunities Act of 1976 applies to the Taiwan authorities, as clarified by the President's Memorandum of December 30, 1978 and the

proposed legislation. The Immunities Act seeks to protect "foreign states", and includes the people on Taiwan.

9. If orderly marketing agreements and other trade agreements are concluded between two non-governmental entities representing the U.S. and Taiwan, would such agreements be subject to attack under the U.S. antitrust laws?

No. Sections 104, 105, and 106 of the omnibus act specifically authorize the American Institute in Taiwan and its counterpart instrumentality set up by the people on Taiwan to enter into agreements in satisfaction of U.S. law. Such agreements would not violate antitrust law.

10. If the Peking government should exercise its claim to regulatory jurisdiction over Taiwan, U.S. companies operating in the R.O.C. could be faced with PRC assertions of illegality for simply paying R.O.C. taxes or engaging in other activities in Taiwan which are not only legal but mandatory under R.O.C. law. For purposes of SEC reporting requirements, the Foreign Corrupt Practices Act, and all other purposes under U.S. law, it should be made clear that, despite "normalization", the PRC has no jurisdiction over Taiwan.

See answers to Questions 2, 3 and 4.

11. The Institute's corporate powers authorize it to engage only in "charitable, educational and scientific activities", raising a serious question whether it has the legal authority to deal with the broad panoply of governmental acts, from selling nuclear fuel and defensive weapons to issuing visas and negotiating trade agreements, delegated to it. In addition to our doubts about the use of this private vehicle to carry out a U.S. Governmental role, we question the wisdom (as well as the arrogance) of the State Department's attempting to force the ROC to create a similar artificial "instrumentality" to deal with the Institute. The instrumentality of the people on Taiwan is the ROC government; both our friendly relations and the need for legal clarity are better served if we allow the ROC to deal directly with the American instrumentality.

The regulations issued under the Internal Revenue Code specifically include lessening the burdens of government as part of the definition of "charitable." We do not believe that there is a serious question about the Institute's corporate legal authority to deal with any of the government acts that it will be charged with, including those specifically mentioned in the agreement. If any question was raised, it could be resolved by amending the Institute's statement of purposes. The State Department is not attempting "to force" the authorities on Taiwan to create a similar entity; the need for such an entity arises from the character of our future relationships with the people on Taiwan. These relationships must be unofficial and non-governmental. The people on Taiwan created such an entity for their dealings with Japan, following the normalization of relationships between Japan and the PRC; relations with Japan are both friendly and clear. The creation of an unofficial entity by the people on Taiwan should not be a barrier to friendly relations or to relations that are carried out with legal precision and clarity.

12. U.S. companies and individual citizens doing business in Taiwan pay their taxes to the ROC government, no to "the people on Taiwan", but have no assurance under the proposed bill that foreign tax credit provisions of the Internal Revenue Code can continue to be availed of by them with respect to such taxes.

The omnibus bill specifies that for all purposes of U.S. law, the term "foreign country" shall include Taiwan. This includes the Internal Revenue Code. Accordingly, the foreign tax credit provisions of the Internal Revenue Code can continue to apply in respect to transactions on Taiwan.

Sincerely,

DOUGLAS J. BENNETT, Jr.,
Assistant Secretary for
Congressional Relations.

Chairman ZABLOCKI. Then I repeat my request, and at this time I ask unanimous consent that the statement from the law firm here in Washington be made a part of the record at this point. We will be welcoming further statements.

[Statement submitted by the law firm of Kilpatrick, Cody, Rogers, McClatchy & Regenstein, follows:]

STATEMENT OF THE LAW FIRM OF KILPATRICK, CODY, ROGERS, McCLATCHEY &
REGENSTEIN

THE ADMINISTRATION'S BILL TO MAINTAIN COMMERCIAL, CULTURAL, AND OTHER
RELATIONS WITH THE PEOPLE ON TAIWAN: PROPOSED ADDITIONS AND REVISIONS

1. Introduction

The purpose of the Administration's Bill concerning Taiwan is "to maintain commercial, cultural and other relations with the people on Taiwan" in the period following the recent termination of diplomatic relations.

In analyzing the Administration's Bill, we have focused on two concrete concerns that practical businessmen will find critical to the maintenance of strong and uninterrupted commercial relations with the people on Taiwan:

Encouragement of U.S. investor confidence in the stability of Taiwan trade and investment.

Avoidance of economic isolation of the people on Taiwan.

In response to those concerns, we propose several additions to the Administration's Bill and two minor revisions.

The Administration's Bill is divided into three titles. Only Title I directly affects relationships between the United States and the people on Taiwan. The seven paragraphs of Title I resolve in generally straight-forward fashion a number of the fundamental legal anomalies created by derecognition, and we suggest only two modest revisions.

The Administration's Bill, however, is not adequate for its stated purpose, and should be supplemented for the very practical reason that it fails to take into account or attempt to counter the intimidating negative impact of derecognition on American investors and businessmen. The Administration insists that business on Taiwan will be conducted "as usual" and points out that other countries historically have increased trade with Taiwan after "derecognizing" the Republic of China ("ROC") government. This viewpoint ignores, however, the fact that businessmen in each of the countries previously derecognizing the ROC could rely on the U.S. Mutual Defense Treaty and the special relationship between the U.S. and Taiwan to protect their investments and trading relationships.

Positive assurances and unambiguous statements of Congressional intent are necessary to assure that American business will continue to trade and invest on Taiwan at levels that will protect Taiwan's freedom and independence. Such inducements should include expanded availability of insurance against forceful expropriation by the People's Republic of China ("PRC") of American capital investment on Taiwan. Additionally, protection should be afforded for the people on Taiwan from sanctions imposed or threatened by the PRC.

A clear statement of U.S. determination to protect Taiwan's economic relationships with the rest of the world is imperative. Military protection is, of course, of vital interest to the people on Taiwan, but the additions and revisions proposed herein do not seek to define the U.S. military relationship with the people on Taiwan in the future. Other resolutions will speak to that issue. These provisions focus largely on the necessity to protect Taiwan's economy. Only by providing such protection can we assure the freedom of choice to which Taiwan is entitled by reason of having cast its lot with the United States so faithfully and for so long. By providing Taiwan reasonable protection for its economy, Congress can assure that U.S. allies will not be coerced by their Communist neighbor, and that they may approach the future and the challenges it may contain from a posture of deliberation, not desperation.

We have considered but declined the opportunity to prepare proposed questions for the Administration's witnesses. The primary task before Congress now is not to explore the Administration's intent in choosing to extend and withdraw recognition on the terms stated, but rather to articulate Congressional intent in adjusting federal statutory law to the new relationship between the U.S. and Taiwan. The Administration may be obliged by diplomatic delicacy to state its position vaguely, even ambiguously. By contrast, Congress is obliged to express itself unequivocally if Taiwan is to receive the statutory protection to which it is entitled. For these reasons, we suggest that the Administration's testimony on the bill will be of less significance in interpreting legislation relating to Taiwan and defining the relationship between Taiwan and the United States than clear statutory statements of purpose and the committee reports from the Senate and House summarizing Congressional intent on the legislation.

Our proposed additions and revisions follow, with brief explanations where appropriate.

2. The Administration's Bill: Additions and Revisions

Sec. 102. Whenever any law, regulation or order of the United States refers or relates to a foreign [or independent] country, nation, state, government [, self-governing dominion,] or similar entity, such terms shall include, and such law regulation or order shall apply with respect to, the people on Taiwan.

The bracketed material should be added to assure, among other things, that the people on Taiwan will qualify for their own immigration quota under 8 U.S.C. § 1152(a). The statutory provision limits each "foreign state" to 20,000 immigrant visas annually. Prior to derecognition, Taiwan and China were classified by the State Department as a single "foreign state" for purposes of Section 1152(a). Such a classification is no longer appropriate. To assure the people on Taiwan an independent visa quota, the bracketed terms, which are used alternatively with other definitional terms in Section 1152, should be added to Section 102.

The bracketed language is desirable for the additional reason that it recognizes reality, i.e., that the people on Taiwan constitute an independent and self-governing entity separate from the PRC, regardless of the fact that Taiwan lacks diplomatic or "recognized" status.

Sec. 106. Whenever the President or any department or agency of the United States Government is authorized or required by or pursuant to United States law to render or provide to, or to receive or accept from, the people on Taiwan any performance, communication, assurance, undertaking or other action, such action may, as the President may direct, be rendered or provided to, or received or accepted from, an instrumentality established by the people on Taiwan [, except that in no event shall the people on Taiwan be obliged to use such an instrumentality to deal with the United States' private corporation on Taiwan itself].

Addition of the bracketed clause is proposed.

The governmental authorities on Taiwan should not be compelled to surrender their authority to a private instrumentality with respect to action or conduct occurring entirely within Taiwan.

Proposed addition.—Sec. 109. No requirement for maintenance of diplomatic relations with the United States, or for recognition of a government by the United States, as a condition for the validity or enforceability of any contract, treaty, accord, protocol, agreement, guaranty or other obligation between or among governmental entities or private parties shall apply with respect to the people on Taiwan.

Derecognition is not intended to abrogate existing treaties or other agreements between the United States or its citizens and the people on Taiwan. Sections 105 and 106 of the Administration's Bill transfer governmental obligations to private entities created by the respective governments. Proposed Section 109 assures that for purposes of domestic United States law, none of the referenced obligations lapses. This provision thus implements President Carters' declared objective as stated on December 15, 1978:

"The people of our country will maintain our current commercial, cultural, trade and other relations with Taiwan ***."

The expressed intention should be supported in the present legislation, so that no argument can arise that under U.S. law, existing arrangements are void because the Republic of China is no longer accepted by the United States as a recognized governmental entity.

Proposed addition.—Sec. 110. No requirement for maintenance of diplomatic relations with the United States, or for recognition of a government by the United States, as a condition for appearance as a party before courts in the United States shall apply with respect to the people on Taiwan.

Derecognition should not close American court house doors to the people on Taiwan and thus effectively preclude them from enforcing their rights.

Proposed addition.—Sec. 111. The term "people on Taiwan," as used in this Act, includes both the inhabitants and government on the islands of Taiwan and the Pescadores, and all other islands and territories effectively controlled by said government as of December 31, 1978.

The proposed language, needed for clarity, is consistent with the analysis which the Administration has provided concerning the proposed Act. The term is not otherwise defined in the legislation and, as used, is not self-defining.

Proposed addition.—Sec. 112. The threat or use of military force or economic sanctions by any nation against the people on Taiwan shall be grounds for the

immediate termination of all diplomatic, trade and other relationships between the United States and the offending nation.

See discussion after proposed section 113.

Proposed addition.—Sec. 113. The United States has a strong and continuing interest in the economic stability and security of the people on Taiwan and will use all appropriate means to assure that no nation interferes in any manner with the rights of the people on Taiwan to trade and do business with other nations, to participate in international organizations that protect and foster such trade and business relationships, and to compete peacefully and on fair terms with all their neighbors.

The United States' expectations concerning the manner in which the PRC and the people on Taiwan should treat each other were articulated in Shanghai Joint Communiqué of February 27, 1972 wherein the U.S. stated, among other things,

"Countries should treat each other with mutual respect and be willing to compete peacefully, letting performance be the ultimate judge."

U.S. trade benefits and concessions should be conditioned on such peaceful conduct to prevent the employment of economic sanctions against Taiwan. Moreover, the U.S. should express its support for continued participation by the people on Taiwan in such organizations as the World Bank, the International Monetary Fund, and other organizations fostering international trade and development.

Proposed addition.—Sec. 114(a). Section 231 of the Foreign Assistance Act of 1961 is amended—

(1) In the second undesignated paragraph, by amending subparagraph (2) to read as follows:

"(2) give preferential consideration to investment projects in less developed countries that have per capita incomes of \$520 or less in 1975 United States dollars, and restrict its activities with respect to investment projects in less developed countries that have per capita incomes of \$1,000 or more in 1975 United States dollars: *Provided, however,* that investment projects on Taiwan shall be given preferential consideration as if Taiwan were a country having per capita incomes of \$520 or less in 1975 United States dollars."

(2) In subsection (e), by adding the word "and" at the end of clause (2) and by inserting the following clause after clause (2):

"(3) to give preferential consideration in its investment, insurance, reinsurance, and guaranty activities to investment projects on Taiwan;"

Sec. 114(b). Section 237 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(m) In considering the issuance of insurance, reinsurance or guaranties in respect of investment projects on Taiwan, the Corporation shall not apply any administrative policy of limitation based upon assessment of political risk, size of country, diversification of portfolio, size of investment or the like, it being the policy of the United States to foster the continued economic and social development of the people of Taiwan through the secure and uninterrupted flow of United States investment."

The Administration insists that Taiwan and its people are more secure today as a consequence of the decision to recognize the PRC. Yet as a condition of such recognition, the U.S. has stripped Taiwan of the insurance most visible to its foreign trading partners—U.S. military protection. Although certain observers in the U.S. may not have regarded the Mutual Defense Treaty as a realistic assurance of active U.S. military involvement in defense of Taiwan, many businesses regarded the treaty as a significant deterrent to PRC military offensive action and thus as a valuable form of insurance for their investments on the island.

Section 114 seeks to permit U.S. investors in the future to purchase investment insurance to replace the military protection so abruptly withdrawn. If the risk of PRC military action is as remote as portrayed, the insurance will never be paid out and will, in fact, generate substantial premium income for OPIC. The demonstration of U.S. confidence in Taiwan's security, however, would significantly increase business confidence and repair the damage done by derecognition.

Proposed addition.—Sec. 115. It is the sense of the Congress that the people on Taiwan represent an admirable example of the development which an ambitious free people can achieve; that the United States may acknowledge the claims of the People's Republic of China that there is but one China and Taiwan is part of China, but that acknowledgement should not be deemed to

constitute acceptance of the validity of those claims contrary to the will of the people on Taiwan; and that the United States should not enter any agreement with the People's Republic of China or others wherein the validity of such claims is accepted contrary to the will of the people on Taiwan.

Since World War II the development of less developed countries has been a priority goal in the search for a peaceful world. Nowhere have the virtues of the free enterprise system been more dramatically demonstrated than in Taiwan. Such a faithful ally and disciple should not be abandoned in order to satisfy some felt need for diplomatic ambiguity. Rather, U.S. interest in the right of self-determination for such a staunch friend should be open and clear.

Proposed addition.—Sec. 116. The establishment of diplomatic relations with the People's Republic of China and the extension of rights, benefits and privileges to the People's Republic of China shall not result in any diminution of or other prejudice to the rights, benefits or privileges now or hereafter extended the people on Taiwan under United States law or under any program of or funded by the United States for which the people on Taiwan are now or may hereafter be eligible.

The suggested provision is designed to insure that participation by the PRC in U.S. programs is not achieved by reducing participation by the people on Taiwan.

Chairman ZABLOCKI. Thank you, Mr. Ambassador. Thank you for coming.

The committee is adjourned until 1:30 this afternoon.

[Whereupon, at 12:35 p.m. the committee was adjourned, to reconvene at 1:30 p.m. the same day.]

AFTERNOON SESSION

Chairman ZABLOCKI. The committee will come to order.

We are fortunate this afternoon to have two distinguished witnesses who will be presenting their views to us on the proposed Taiwan legislation and related matters.

The first witness is our colleague, Hon. George Hansen of Idaho. George, please proceed.

STATEMENT OF HON. GEORGE HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO

Mr. HANSEN. Thank you.

PRIVATE INSTITUTE

I appreciate the opportunity to appear before your committee on this important legislative matter. Since I strongly oppose the administration's bill to provide for a private institute for handling U.S. dealings with the Republic of China on Taiwan, I choose to center my testimony on a positive alternative.

This thrust is embodied in legislation which I introduced this week and which was referred to this committee's jurisdiction.

Mr. Chairman, a terrible tragedy is about to occur unless we act now and act decisively to prevent 17 million free people who have fled and fought communism from being forced back into its jaws. The Republic of China and Taiwan is our eighth largest trading partner, much larger than the Soviet Union and Red China combined. American bankers and businessmen in Taiwan have billions of dollars at stake which must be protected, and American farmers and business-

men could well lose all or part of an \$8 billion market; one of the only world markets unsubsidized by U.S. taxpayers.

I just returned from Taiwan. The people there want and need a continued official government-to-government relationship and a continuation of the Mutual Defense Treaty. The institute proposal condemns the people of Taiwan to nonentity status among the family of nations, giving the Chinese Communist Government a hunting license to absorb Taiwan when and as it will as a matter of internal politics, with relative immunity from serious challenge from other nations.

The Institute proposal has seriously threatened the American business community concerned with Taiwan, who fear loss of markets, loss of investments, loss of assets, and already evident Red Chinese intimidation in doing business with Taiwan. We need more than resolutions of good intent in these critical times. We need firm and decisive action, preserving our long-time official government to government relations with the Republic of China and Taiwan.

There has been an official two-China policy for years, since President Nixon opened the mainland with U.S. liaison offices in Peking while continuing the U.S. Embassy in Taipei. I have the personal assurance of Republic of China Premier Sun that despite U.S. recognition of the Peking Government, Taiwan has always desired and continues to desire full official diplomatic relations with the United States.

PROPOSED LEGISLATION

The issue requires a strong stand. To protect America and Americans, and to help assure the independence and freedom of 17 million Chinese people in Taiwan, I Monday introduced legislation designed to force our continued recognition of the Republic of China as a condition for granting the special advantages President Carter is seeking for Communist China, such as most favored nation status.

This legislation, H.R. 1856, amends the Foreign Trade Act of 1974 and requires equal diplomatic status for the two Chinas and a close monitoring of markets for U.S. exports. It also calls for termination of U.S. trade benefits in the event of armed conflict, blockade, or boycott; and boycott is defined as in Public Law 95-52, dealing with problems in the Near East.

Free China is not our enemy. Free China has not committed acts of hostility against the United States. Free China is only guilty of being our friend and ally in a world where faithful friends are often hard to find.

Mr. Chairman, I hope this committee will study the merits of my bill, H.R. 1856, amendments to the Foreign Trade Act of 1974, an act to protect American and Free Chinese interests by preserving the international status of the Sovereign Republic of China and balancing our relations with the two Chinas.

HUMAN RIGHTS

Mr. Chairman, I would like to relate a couple of incidents. I hear a lot about human rights, and it seems to me that this could not possibly be the mainstream issue when we recognize the People's Republic of China; not when we compare their record with that of the Republic of

China or anyone else. Nevertheless, I had a Belgian television team interview me when I was there. They said, "There are people in prison for political reasons in Taiwan just as on the mainland, so what is the big difference?"

I answered, Mr. Chairman, that I think the difference shows in the direction in which you swim. I haven't heard of anyone swimming to the mainland. I think this tells relatively where the human rights are and where they are not. Again, one of the people in the group I was there with, was asked the same question, and I thought he gave a very sensible answer. He said, "Human rights are when you are free to leave a country."

You are free to leave the United States if you do not like the establishment and you cannot do anything about it, and you are free to leave Taiwan, but are you free to leave the Communist nations of the Soviet Union and the People's Republic of China? I think this is a meaningful description of human rights: Are you free to leave?

This should somewhat answer the argument of human rights.

REFUGEES

I think there are also other things we need to take into account, I visited for several hours with refugees, Mr. Chairman, and some of them came out of Communist China at great peril and great cost. Not many are able to get out, but you know, when a man tells you his brother was beheaded and his mother was starved to death purely because he left the country, that's a pretty strong deterrent. There is something wrong—terribly wrong—with that kind of a system. But more important, there is something even more wrong with forcing the same people who escaped to go back under such a system of hell.

I think it is the moral duty of this committee and all of us as Members of the Congress of the United States who stand behind the freedoms that we hold dear in this country, that we do not force a nation of free people into slavery by making a nonentity internationally out of the Republic of China and leaving them to be victimized by the People's Republic of China.

PRESIDENT'S PLAN

Mr. Chairman, the President's plan will not work. It absolutely will not work. I talked to the Embassy people, or shall I say the former Embassy people in Taipei. They have a number of questions which are not answered and cannot be answered under a facade or a fraudulent type operation such as trying to conduct government operations under a private institute-type program. They had such questions as diplomatic immunity, what happens if someone in our diplomatic corps, which is to be a nondiplomatic corps there under the new system, what happens if they run over someone or do something where they need diplomatic immunity? That is not provided under the private system proposed, at least not guaranteed.

Group insurance and retirement programs, can these be guaranteed by a word of mouth situation? There is no financing or debt recourse guaranteed under these circumstances. And once the Marines leave, Mr. Chairman, there is no protection for the people who represent the

U.S. Government officially or unofficially, and there is no protection for the 5 or 6 billion worth of U.S. citizen establishments there.

It is a very shaky operation, and I do not think any of us should be responsible for instituting such a program, because I think it is going to jeopardize our interests very significantly as well as jeopardize the safety and lives of 17 million people in the Republic of China.

Chairman ZABLOCKI. Thank you, Congressman. I share some of your concerns. I commend you for testifying before this committee and presenting your views so forcefully. The question of diplomatic immunity was raised earlier in our hearings, and the committee will certainly give consideration to some of the assurances and intentions which the executive branch listed. Hopefully, the omnibus bill which was introduced by request by the Chair will be amended in this respect.

I notice you mentioned the Marines are leaving Taipei. I am sure you are aware that the Marines are not allowed in Peking. It is my understanding that that Government does not allow any of the Embassies there to have security. They say it is an insult to them. There were no locks on the doors when I was there in 1975. They did not allow the Marines to be there to secure our people.

As to your bill, H.R. 1865, the Chair expects to refer it to the subcommittees chaired by our colleagues from New York, Representatives Wolff, and Bingham for consideration.

VIEWS ON ONE CHINA

Now, in your statement you said that you had personal assurances from the Republic of China's Premier as to his attitude toward the United States and his desire for full official diplomatic relations, despite the fact that we have normalized relations with Peking. Did he indicate or did he state that the Republic of China has changed its views concerning one China, that the Republic of China is still representative of the mainland of China?

Mr. HANSEN. Mr. Chairman, I think the one China idea is an attitude of the hoped-for reunification of the Chinas under a free flag which they have entertained, but this does not interfere with their diplomatic situation. I suppose we might have entertained certain notions in this country, not entirely realistic or attainable, about who we would have the States of the Union or whether certain areas would be independent such as Puerto Rico. The point I am getting to here is, I did ask the question of Premier Sun, "does the U.S. recognition of Red China as a government with diplomatic exchange and so forth change your desire to continue to be recognized on a government-to-government basis by the Government of the United States, notwithstanding any of your internal or national desires?" and he absolutely assured me there was no change.

In fact, he pointed out something which we are all aware of, that there has been a two-China policy for the last 7 years, where we had official offices, liaison offices in the People's Republic of China as well as an official office in the Embassy in the Republic of China in Taiwan. So all we would be doing, if we considered legislating a government-to-government relationship with Taiwan while conceding the Presi-

dent's recognition of Peking, would be to continue something that is already there, a two China policy that has been in effect for 7 years, Mr. Chairman.

Chairman ZABLOCKI. Following up that question, I would ask the question: Has he indicated that the Republic of China on Taiwan will declare itself an independent state and thereby, of course, forgo any unification with China or any desire to represent the mainland?

Mr. HANSEN. Mr. Chairman, I think for them to renounce their hoped-for goal really has nothing to do with our recognition. We did not ask the People's Republic of China to renounce the fact that they claimed jurisdiction over Taiwan in order to gain recognition. It seems to me that the geographical distinction is there. The mainland government owns the mainland, and the Republic of China has the real estate in Taiwan, and these are two separate entities. That is a fact of life. There has been official recognition of two entities, and it seems to me it is a problem for them internally but not for us internationally. It will be difficult for the Republic of China to make such a declaration of independence this time because of the way their legislature is structured to include the provinces of mainland China, but this does not alter the fact that they are a separate, distinct international entity and have been considered so for many, many years, and the People's Republic of China is likewise.

Chairman ZABLOCKI. Could you directly advise the Chair whether there was any indication of Taiwan declaring itself an independent state?

Mr. HANSEN. Mr. Chairman, I think that you, that anyone who asks this would be asking for them to declare something that is already there. They are already an independent state. They have never been controlled by the People's Republic of China, and I would think that this would be a degrading thing to ask them to do, to declare something that has been a fact for all of these years. They are an independent state. We have recognized them all of these years as an independent state. Why do we go back and make them reassure us on something that we have recognized as a fact for all of these years? And certainly no such request has been made for the People's Republic of China to declare itself separate and independent from Taiwan.

Chairman ZABLOCKI. There is a difference. Indeed, there have been two Chinas, but both insisted and maintained that they were one, that there was only one. Both sides may have intentions of peaceful unification. I do not believe the People's Republic of China could take Taiwan by force without a great cost; and certainly for Taiwan to try to unify China by force would be idiotic and impossible. But putting that question aside—and indeed there are two countries and two governments controlling different land masses, one much larger than the other and with a population much larger than the other—could you advise us as to whether President Chiang said he would declare Taiwan as a sovereign entity, a Government of Taiwan?

Mr. HANSEN. Mr. Chairman, I believe they consider themselves and have always considered themselves an entity, and I guess I would have to restate what I said, that this would be a restatement of something that they would consider to be demeaning and degrading, and I do not know why it would be necessary. It seems to me if we want to prevent

hostilities in that area, the best thing we can do is not give a license to one side or the other to go in and try to gobble up the other. If we recognize each one as an international entity in their own right, there is no license for one to attempt to conquer the other.

Chairman ZABLOCKI. So, Congressman Hansen, he did not state that that was their intention?

Mr. HANSEN. I did not pose that question because I thought it too obvious.

Chairman ZABLOCKI. If you had answered that in the beginning, I would not have had to go through all this.

Mr. HANSEN. I am sorry.

Chairman ZABLOCKI. Thank you very much.

Mr. Winn.

Mr. WINN. Thank you, Mr. Chairman.

ARGUMENTS WITH TAIWAN

I appreciate your testimony before the committee, Congressman Hansen. I think you bring out several very strong points. One is here on the front page, where you say the Institute proposal condemns the people of Taiwan to a nonentity status.

It might have been a little softer if you said, "probably condemns them to a nonentity status," because we do not know exactly what is going to happen, but I appreciate your concern for those people over there and for those workers. It is one of the many, many things that the administration has not answered as of now. As a matter of fact, the more we get into these hearings, it seems that a great amount of the agreement or the discussions with Taiwan are based strictly on verbal agreements information. It seems to me so far there is very little in writing. I think that is something that the committee is going to want to look into.

Second, having not had a chance to do anything but scan your bill, H.R. 1856, I will take an opportunity as soon as the hearings are over to take a good look at that bill. It might be quite possible that I would want to cosponsor it with you.

I appreciate your appearing before the committee today. Thank you.
[Mr. Pease assumed the Chair.]

Mr. PEASE. Thank you, Mr. Winn. Looking down the list of people who are eligible to ask questions, I find that the Chair's name is next, so with the indulgence of the committee, I will take that opportunity.

GOVERNMENT RELATIONS WITH TAIWAN

Mr. Hansen, we do appreciate your testimony. I would like to ask you a question or two regarding the specifics of your bill. You say your bill would require that any official government missions from the United States to the People's Republic of China or Republic of China would have to be the same: both embassies or both consulates or whatever. Under that situation, what would happen if the Republic of China refused to extend or exchange ambassadors with us as long as we proposed to do it with the People's Republic of China? Would that not, under the terms of your bill, deny us the opportunity to have any diplomatic relations with the People's Republic of China?

In other words, would it not put the Government of the Republic of China in the driver's seat?

Mr. HANSEN. Mr. Chairman, absolutely not, because I had the personal assurance just a few days ago from the Premier of the Republic of China that they desired full government-to-government relations with the United States to continue even under the circumstances of full recognition of the People's Republic of China on the mainland. So there is absolutely no question but what this would be accepted, in other words, full government-to-government recognition would be accepted by the Republic of China on Taiwan notwithstanding our recognition of Peking.

So, the question you pose is hypothetical but not real under these circumstances.

Mr. PEASE. I see, but that is a change of position on the part of the Republic of China Government?

Mr. HANSEN. No, sir. For 7 years we have had government-to-government relations with both nations. Since Mr. Nixon went to Communist China we have had liaison offices established there, and these are official offices of the United States. In this time the Republic of China on Taiwan made no effort to break diplomatic relations. I think they have indicated all along that while they may not appreciate our position, that they would not break diplomatic relations or refuse to have government-to-government relations with us because of this.

Mr. PEASE. I am glad to hear you say that, because that is different from the information I had. My understanding is that if we were to extend formal diplomatic relations to the People's Republic of China, that the Nationalist Chinese would break relations with us.

Mr. HANSEN. I might say, Mr. Chairman, that I had witnesses at that meeting. Congressman Ashbrook and Senator Humphrey were with me when I asked these questions, and the facts are there. They have not broken diplomatic relations in 7 years of dual relationship or two China recognition. So, it seems to me whatever information someone is peddling about a one China policy is not valid. It could not possibly be valid because we have had 7 years' experience that shows otherwise.

ATTITUDE OF TAIWANESE

Mr. PEASE. I see. I would like to get some benefit from your experiences on Taiwan or in Taiwan. I understand your discussion that the Nationalist Chinese do not wish to be reunited with the mainland China, and that you expressed it by saying that there are no Nationalist Chinese trying to swim over to mainland China.

While you were there, did you get any feel for the attitude of the Taiwanese as opposed to the Nationalist Chinese in Taiwan and what their attitudes are?

Mr. HANSEN. Yes, Mr. Chairman. Of course, we are all privy to the stories going around that there is a layered effect where the Kuomintang has imposed itself over the Taiwanese people, and there is hostility and some kind of effort to resist and throw them out at some opportune time. I might say I think this is really exaggerated. I could not say there are not some Taiwanese who maybe would like some kind of independent status, but I can say that is certainly not the general case from my observations. In fact, I find that both parties

have been there together long enough that there is a considerable amount of intermarriage and some of the highest officials of the Republic of China are Taiwanese, as are some of the most influential people in the business community and so forth.

I would think that someone is playing a game to try to bring down the Republic of China, and it is predicated on an inaccurate premise.

Mr. PEASE. I see.

I see my time has expired.

Mr. LAGOMARSINO.

Mr. LAGOMARSINO. Thank you, Mr. Chairman. Congratulations on your ascendancy to the top row.

Mr. PEASE. It is a whole different view from up here.

PRESIDENTIAL VETO

Mr. LAGOMARSINO. George, I appreciate your coming here and sharing your views with us. I guess of all the Members of Congress you and the people who went with you have the latest hot dope from the place that is most affected by what the President did last December.

You know, it occurs to me that it is just almost an inconceivable situation where we have an official delegation, not an embassy, but an official delegation in Cuba—with all the problems we have with Cuba—yet we are told we cannot have any kind of official government representation on Taiwan, who has been our ally for all the time of its existence, so I agree with you. I think we should do everything we can to see that there is some government-to-government relationship continued.

However, it is being made rather plain that President Carter would veto such legislation. What do you say about that? In other words, what they are saying in effect is: Take it or leave it. If you don't take this, you will have nothing. That is the import of what is happening.

Mr. HANSEN. I appreciate the problem posed by the gentleman from California. I might say that this is addressed in the bill I presented today, which has been referred to this committee. In a sense, we do not have the ability as Members of Congress, you know, to conduct foreign policy, and we all acknowledge that, but I think we do have the privilege of making some kind of mutually advantageous arrangement between us and the Chief Executive.

My bill is addressed to the point that if he wishes to do certain things with the People's Republic of China, such as give them most-favored-nation treatment and other things, then he also has to recognize and similarly handle the Republic of China. In other words, it has to be a dual recognition and the same treatment, a common treatment of both nations, and I think it is within the authority of Congress constitutionally and legally to exact these conditions of the President and say to him, "you can go and conduct most-favored-nation relationships with the People's Republic of China, but you can only do it under the basic circumstances or conditions we set, which means that you will still recognize Taiwan or we will not approve your PRC requests."

So, it all boils down to one of those so-called compromises we hear about on Capitol Hill every once in a while.

CONDUCTING BUSINESS WITH TAIWAN

Mr. LAGOMARSINO. I have heard several reports—and incidentally, from some of the people who were on your trip—that the Government of the People's Republic of China has advised certain businesses who want to do business in the People's Republic that they would no longer be able to conduct business on Taiwan. Do you have any information on that, or did you hear any discussion of that sort?

Mr. HANSEN. I certainly have. This is why my bill addresses the problem of boycotts such as we experienced with the Arab and Jewish situation some time ago and which we addressed in legislation to prevent that type of thing. We have seen where already two or three firms, which I could name, have abandoned Taiwan to go to the mainland with the idea—and no one will really say it out loud at this point—but with the idea that if they want to do business with the People's Republic of China, then they cannot do business with Taiwan, or they can do it only with the permission and under the guidelines of the People's Republic of China.

I think this is unfortunate, when one nation can hold us hostage for the conditions under which we do business with another nation.

NUCLEAR FUEL SUPPLY

Mr. LAGOMARSINO. Did you hear any discussion of the situation with regard to our furnishing nuclear fuel to the Government—I guess we do not furnish anything to the Government any more—but to the people of Taiwan?

Mr. HANSEN. I did meet with the United States Chamber of Commerce there. We had an extended meeting, and they expressed the concerns that you addressed in the last question, Congressman. I know firsthand that some of the things, as far as holding hostages and economic boycotts, are there, and somewhat in evidence already.

As far as the second question on nuclear fuel, Taiwan committed itself to buy five or six reactors from the United States, and it is only a partially filled contract. They have to be able to complete construction, buy fuel, and so forth. There are all sorts of complications as to what they can continue to buy; or, if we get them into an adverse economic position, whether they will be able to continue to be a viable economic entity. What this will do to the several billion dollars of U.S. investments and money that they owe us now in the trade area is a good question; in other words, their future ability to pay for these reactors and the fuel and everything else.

I think we are creating a problem that could be very costly to the taxpayers and consumers of the United States.

Mr. LAGOMARSINO. Thank you.

Mr. PEASE. Thank you, Mr. Lagomarsino.

Might I inquire of Mr. Pritchard, were you present at the beginning of the hearing?

Mr. PRITCHARD. Yes, I was.

Mr. PEASE. Mr. Pritchard.

PROPOSED LEGISLATION

Mr. PRITCHARD. Thank you. I appreciate your coming before the committee. As you know, some of us were in Taiwan a week or so before you went and I think we found similar attitudes. We met with the chamber there. I think we had some of the same experiences.

Mr. HANSEN. The gentleman from Washington made good waves. I heard about it.

Mr. PRITCHARD. The problem we are faced with at the committee here—and the gentleman from California touched on it—is that I do not think your bill is going to get out of committee, to be truthful. I would be very surprised. We are faced with the question of whether we are going to put some kind of structure together so that the Taiwanese can continue to do business, or are we going to fail to meet the deadline. We are on the horns of a dilemma, because the last thing we want to do is have the people of Taiwan and ourselves fail to put together some mechanism so that those people that you and I talked with can do business and can at least keep their economy going. I would share that problem with you, as I am not sure we have choices, and we are going to have to make the best out of what we can do.

I think that is a dilemma that faces you.

Mr. HANSEN. May I address that subject? I think that, yes, the realities are such that when you oppose the administration, that it is difficult to get legislation out of committee or on the floor or passed or anything else, but I must say ideas can be moved into different spheres. I would hope the committee would take up the legislation as a matter of conscience, because I think it is necessary, but if they cannot, I have no pride of authorship in the bill you pass out. If some of the ideas were adopted that would maintain a government-to-government relationship, I would be grateful, and I think the people of Taiwan would be grateful. It is the idea that is important, and not so much whose bill it is anyway.

The second thing I would like to say is, I have talked to some of the Members of the other body today, and they like many of the ideas that are in here about amending the Foreign Trade Act and embodying some of the provisions of my bill. They, I think, are going to incorporate them in some of the recommendations they have over there. So if the idea floats, that is satisfactory to me, and I hope it will.

Mr. PRITCHARD. I appreciate your contribution. I have no further questions.

Mr. PEASE. Thank you.

The gentlelady from New Jersey.

Mrs. FENWICK. Thank you.

GOVERNMENT RELATIONS WITH TAIWAN

I think Taiwan has a very favorable trade balance with us. In other words, they sold us some \$5.2 billion whereas we only sold \$2.4 billion to them, so they have indeed not been, you know, unduly harmed by trade with the United States. I wonder in your opinion if we copied the relationship we had with the Peking government, with a liaison office—it was not full diplomatic recognition—and an

embassy at Taipei, if we did that, would that be satisfactory to the government, to President Chiang, to whom you spoke?

Mr. HANSEN. I think from everything I gathered—and I asked some very pointed questions there—that they want government-to-government recognition, Mrs. Fenwick. It is essential to their survival.

Mrs. FENWICK. I am not asking that.

Mr. HANSEN. I understand your question. I am leading to that. So what I am saying is, I think they would like to continue the way they are, and if it was to become a case of government-to-government relations in a reverse situation—that they have the liaison office and Peking has the ambassador—I think they would swallow hard and do it. In fact, I have every reason to believe they would.

Mrs. FENWICK. Because it struck me with alarm that this gentleman to whom you spoke, the head of that government now on Taiwan, that from what you understood from him, that in the absence of government-to-government relations between us and the people of Taiwan, that the lives of our American citizens would not be safe, that the assets of our American businesses would not be safe. Is that correct?

Mr. HANSEN. That is correct.

Mrs. FENWICK. You mean that is the kind of people they are.

Mr. HANSEN. No, that is not the kind of people they are. I am just saying that even in the United States—

Mrs. FENWICK. That when the Marines are not there, our people are going to be in jeopardy?

DIPLOMATIC IMMUNITY

Mr. HANSEN. I think you are emphasizing the wrong points, Mrs. Fenwick. The point I make is, there is no diplomatic immunity. Even under the laws of just accidents and problems that people can have, that when people are in the diplomatic service of a nation, they don't have the ability to take care of themselves in the foreign courts and foreign circumstances like they do under our own laws, but with diplomatic immunity they get that assistance.

All I am saying is, this is really asking an awful lot of people to voluntarily get out of the Foreign Service and take a voluntary situation there without any of the guarantees they have enjoyed before.

Mrs. FENWICK. None of our businessmen has diplomatic immunity. All our people who live in every nation of the world have no diplomatic immunity. So you are talking about a handful of people who might be managing the Institute?

Mr. HANSEN. Not at all, because before the U.S. business community had the services of an official U.S. Government agency right there to take care of them if they had a problem, whether they were an employee of the Government or a part of the business community. They will not have that now.

ELECTIONS IN TAIWAN

Mrs. FENWICK. According to testimony this morning, there will be somebody there in the Institute who will have connection with our American official in Hong Kong, and that will be the place for visas and any aid that any American citizen needed. If they needed a visa,

they would go to the Institute and they would be in touch with the consulate in Hong Kong.

I am trying to find out about the 17 million people in Taiwan, and all of us are concerned about the 17 million people in Taiwan. I do not think any member of this committee is entirely happy with the way that was done. I think we should have waited until the elections on December 23 to find out what the people of Taiwan think about the government they have.

That would have been a free election, I presume, and if we had waited, we would have known. We do not know now. They were cancelled, and in my opinion understandably.

So there are a great many things that do not satisfy everybody.

Mr. HANSEN. Then why do we have two standards between them and the mainland? We do not worry about elections on the mainland.

CONGRESSIONAL VISIT TO TAIWAN

Mrs. FENWICK. We have always had two standards between them and the mainland, and I am not saying that if they canceled it, that puts them down in my book. That is their business. All I am saying is, I think it would have been wise for us to wait. I do not like the way it was done at all, and I think we owe them some consultation, too.

So, it is not that I am entirely satisfied. I am trying to see how we can best approach protection for the lives of the people who live there—American citizens primarily, and maybe all of them, but at least they are our responsibility—and the assets of people who in good faith invested there, and I am trying to find out from you what their fate might be. What was the group which went? Under what auspices did you all go?

Mr. HANSEN. There were about 10 Members of Congress and the Senate and about 20 other people. We went over with the sponsorship of the foundation that helped raise the money for some of the people. Some tickets were paid for by travelers themselves. It was kind of a combined group that went together.

Mrs. FENWICK. I know that foundation. Tell me again the name.

Mr. HANSEN. I do not remember the name right now. It is some kind of a conservative foundation.

Mrs. FENWICK. That is right. Well, in any case, the government people were frank with you, I presume, and felt that you were friendly, Congressmen, so that they would tell you something that they would not tell somebody else?

Mr. HANSEN. Well, I think that they would have told anyone else here the same thing if they were asked the same question.

Mrs. FENWICK. Well, I do not know. It seems to me we have worked ourselves into rather a box. I do not know how we can somehow protect those people. Now, this morning there was testimony from the head of the council, the Economic Council—were you here?

Mr. HANSEN. No, ma'am.

Mrs. FENWICK. It was most interesting. Of course, they are concerned about contracts and assets, and we will have to look at all of this.

Mr. HANSEN. I had a staff man here.

Mrs. FENWICK. Mr. Kennedy was here. Well, thank you. My time is up.

Mr. HANSEN. Mrs. Fenwick, might I just respond to one thing you said?

OFFICIAL RELATIONS WITH TAIWAN

Mrs. Fenwick, you and many of you are champions of freedom and of open government and honest government, and it seems to me that the thing to do here has to be the right thing and not just the expedient thing, and it seems to me that any time we are talking about some kind of an unofficial agency to take care of official business, it is a facade, a fraud, and if we really stand for free and open and honest government, we cannot in good conscience go this way.

We know what we are doing is trying to avoid an official recognition for public relations purposes so that we can fill the conditions that were agreed upon with the People's Republic of China, but if we do it under terms that are not even honest with ourselves, how can we live with and face the world? I think we have to really get down to what is the honest thing to do.

Mrs. FENWICK. Congressman, there are other organizations of that kind. There is the Japanese Association that operates that way.

Mr. HANSEN. Mrs. Fenwick, that operation has been shown to be absolutely a bomb-out. It has not worked. The only reason it ever even possibly worked was when the United States stabilized the area by having diplomatic relations. When we are out, it for sure does not work. It has not worked before, and certainly ours is not going to work if we are not there officially to stabilize it as under the old circumstances.

[Chairman Zablocki assumed the Chair.]

Chairman ZABLOCKI. Thank you very much. Congressman Hansen.

Our next witness is the Honorable Ray S. Cline. Mr. Cline has had a very distinguished career both in senior government ranks and as a scholar and author. He is presently executive director of world powers studies, at the Center for Strategic and International Studies, Georgetown University. We are pleased to hear him on the matter before us.

Dr. Cline, welcome to the committee. You may proceed.

STATEMENT OF RAY S. CLINE, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, GEORGETOWN UNIVERSITY

Mr. CLINE. Thank you very much, Mr. Chairman.

I would like to begin by congratulating this committee on holding these hearings. I can already say from the brief discussion that I have listened to that I consider the quality of focusing on the key issues considerably better than that I have observed in 3 days' discussion in another organization, I might say another House not too far from here—

Mrs. FENWICK. Another body. We call it a body.

Chairman ZABLOCKI. You have no objection if we keep that on the record?

Mr. CLINE. I have no objection to keeping it on the record, Mr. Chairman.

Chairman ZABLOCKI. We would not let you delete it.

Mr. CLINE. I was given the privilege of testifying yesterday before the committee of the other body, and I tried to focus the discussion on a number of key issues which I felt administration witnesses and a number of other witnesses had pussyfooted around about in a way that, if it was not a high order of deliberate ambiguity, it was downright duplicity. I think we ought to face the fact of what it is the U.S. Government is doing in its relationships with the Republic of China on Taiwan.

The Congress ought to be responsible to the American people for legislating something they believe in. I do not think there should be any ambiguity about our intentions.

I think, if I may, Mr. Chairman, I will try to speak briefly about some highlights of my convictions on these matters. I have prepared a statement which I have submitted to the committee with two attachments. If I could have permission to read those into the record, I would be much briefer.

Chairman ZABLOCKI. Without objection, your prepared statement will be made a part of the record following your extemporaneous remarks.

Mr. CLINE. Thank you very much. I particularly wanted to do that because I want to start with the issue I believe we were discussing at the beginning when you were first in the chair and which continued for a time afterward. I want to associate myself in many ways with the views of the distinguished Congressman who testified first, but I am particularly impressed with the importance of his statement about the treatment of the Republic of China on Taiwan as a political entity willing to be recognized as such, that is, as the government, as the effective government of a particular body of territory and group of people. That is a very important matter, and Mrs. Fenwick's questions indicated that she still has some concerns about it.

I want to quote from the President of the country. Congressman Hansen quoted the Prime Minister. Also, so there would be no ambiguity about it, I want to quote from the National Assembly of the Republic of China, which is the highest constitutional authority. It was established on the mainland under the constitution which has been in effect for many, many years. It is still operating in the Republic of China in its last 30 years of residence on the island of Taiwan.

INDEPENDENCE OF TAIWAN

The National Assembly just last year and the President of the Republic of China only a few weeks ago both used a phrase which I think this committee should note. I am sure it was done deliberately. They declared that the Republic of China is "an independent sovereign nation." It means, of course, it has the inherent right to self-determination and self-defense.

Now, I believe the administration and the State Department in particular is trying to give the impression, as some of the questioning here suggested, that the Republic of China, that President Chiang and Prime Minister Sun would reject their being recognized as a Republic of China solely, *de facto*, responsible for the government of the Island of Taiwan and those associated islands, the Pescadores, Quemoy, and Matsu, which they do in fact control.

I think this is a spurious argument. I think it is bad history, and I would like to refer you to the fact that as an international matter, there have been, not just for the past 6 or 7 years, but for 30 years, since the People's Republic of China seized control of the mainland, there have been two legal entities governing parts of China. Both countries claim other parts of China they do not control, that is clear, but we do not refuse to recognize Ireland because it aspires to have control over parts of the United Kingdom, the northern part of the island which they live on. There are many countries which claim territory which they do not actually control. We have recognized them. We deal with them as the actual controlling government of the territory, and the people they represent.

Reality is the test, and in this case, reality is duality.

Furthermore, since 1949, when these two separate governments became duly formally constituted bodies, American agreements and treaties, including the Defense Treaty and the Treaty of Friendship, Commerce, and Navigation—both of which are still in force today, as a matter of fact, until the rest of this year both will be in effect along with 50 other treaties—all of these treaties have been cast in terms clearly specifying that we, the United States, are treating the Republic of China as the government of Taiwan and the islands controlled from Taiwan.

If you read those treaties and agreements, some of them had to be amended, having been written earlier, before 1949. They have all been so amended. Our relationship since 1949 with the government which calls itself the Republic of China has related only to Taiwan and the Pescadores. I do not scruple to call it the Republic of China, although the State Department and the White House seem to have developed a severe case of amnesia on this subject; they cannot recall the name the Republic of China. They call it the "authorities on Taiwan." But the Republic of China is a government which we have been dealing with since 1949, quite apart from its claims to represent all the Chinese people on the mainland, as the controlling legal authority of a sovereign political entity with an international personality responsible for Taiwan and the islands controlled from Taiwan.

The authorities of the Republic of China on Taiwan have specifically and in writing accepted those arrangements. They are, I assure you, willing to be recognized legally as the government of the Republic of China on Taiwan and the associated islands which they control. If you do not believe me, ask the representatives here, who, after all, are still diplomatic in status for another few weeks.

I was told in recent days that the State Department has announced that they intend to expel those representatives on March 1 unless the Congress and they, the Republic of China representatives, agree on the administration's bill. I do not know what will happen in that encounter, but I feel that the State Department cannot change by dictate the fact that these people are now and of right ought to represent a legal government which is effectively in control of Taiwan's territory and people by every international standard of recognition of a sovereign political entity. That is the first point I want to make, Mr. Chairman.

I apologize for going on at such length, but we have been discussing it here already, and I wanted to be as clear as I could on it.

UNOFFICIAL RELATIONS WITH TAIWAN

I want to make a second statement about the nature of the unofficial body which has been set up or is proposed to be set up in the bill the President is asking you retroactively to pass in order to give a kind of legislative fig leaf to the decision he already took on the 15th of December to cut off formal, official, legal recognition of this government, which I will say is still the Republic of China and will be no matter what the State Department describes it as.

The President is carefully avoiding in this legislation making any legal binding governmental commitment to Taiwan's security, trade, technological exchange, or whatever. It expresses an interest. It even expressed an expectation—whatever that means—but it made no commitment.

H.R. 1614

This bill is designed to be a substitute for a security, commerce, and cultural relationship. It is really a sham.

I must say H.R. 1614 is one of the most bizarre bills I have ever seen. Is it full of legalistic double talk. I really think it would be better to describe it as a Chinese fortune cookie baked in Peking, and what is important about a fortune cookie is the message inside, and the message inside is, clearly: We are going to set up an unprecedented and unusual institute to conduct a critical element of American foreign policy. I would like to reiterate what I said earlier, that the Japanese model of unofficial instrumentalities is not a suitable model for a country which has area-wide security as well as weapons supply responsibilities in East Asia. The United States has a true governmental responsibility in this area, which I see no way in the world that a so-called private enterprise, dealing with some unspecified people, can carry out. As a matter of fact, the proposed unofficial American relationship recommended in this bill seems to be a device to permit this country to shirk its long-standing security guarantees to Taiwan.

Furthermore, you are being asked to assign total responsibility for the conduct of particularly sensitive international relations to a group of private individuals answerable only to the whim of the President. Almost every clause in this bill as drafted ends up "as directed by the President." It is a sham private institution, because it proposes to give the people in it—a bunch of defrocked military officers and foreign service officers—all the privileges they would normally enjoy if they were conducting the business of the U.S. Government. I hesitate to say this for the record, but since the chairman knows of my career, I am going to say that this institution is styled in a way reminiscent of the clumsier "sheep-dipping" operations conducted by the CIA overseas in recent years of the kind that call for taking American officers out of uniform and calling them civilians and then putting them back into uniform whenever it suited us.

I happened to be in the CIA at the time, and I may be partly responsible for some of those operations, but I think they were rather ill-

conceived. Anyway, I think it is a very poor precedent for conducting the foreign relations of this great Government.

Now, let me just go back and pick up a few summary statements, sir, and then I would be happy to answer questions. It is a very important message inside the fortune cookie. It is that we are really, no matter how much we try to disguise the fact with statements about how long it would be before the Chinese Communists can take over the island by force, or academic doubletalk about there really being only one China—which obviously refers to Chinese civilization and not governments and political entities—we are actually saying that we, the United States—by what international authority I cannot imagine—are giving the 17 million people of Taiwan and that territory to a Communist regime; namely, the People's Republic of China. That is what the message is, and as you well know, those people are being transferred against their will, as if they are our chattel goods.

I do not think any Member of this Congress has any intention of legislating something which in fact will amount to this act.

I have not been able to get from our authorities any denial of it. They say in effect that perhaps the unification of Taiwan with the mainland will come peacefully, but in fact after some decent interval, Mr. Chairman, the White House and the State Department expect the legal control, the sovereignty over those territories now under the jurisdiction of the Republic of China to accrue to the most massive dictatorship in the world, the People's Republic of China. That is what the real message of H.R. 1614 is.

CONSULTATION WITH CONGRESS

Now, since this Congress as recently as last July, if I recall correctly, requested the President in an amendment to legislation—which actually became law under his signature—to consult with the Congress before making any substantial changes in our foreign policy with respect to our defense treaty with Taiwan—and I do not detect any extensive consultation—I think that the Congress has an obligation to protect its own reputation with the country, Mr. Chairman, to investigate what our Government is doing in this important area, and asking you to do with this bill.

So, I would conclude by saying that in the interest of avoiding the charge, which is the worst one a nation can have in international affairs, of betraying a friendly nation to its mortal enemies, I say we should re-examine our policy. I heartily agree with Congressman Hansen that there is no reason we cannot have diplomatic relations with both sovereign entities, except our fear of the consequences in Peking. I do doubt, at least I was not aware that our foreign policy ought to be made in Peking. I thought it ought to be made here in this city, in Washington, in the interests of this country.

Therefore, I urge you to examine, in the context of the integrity of our international alliance system now under attack in many quarters and our moral responsibilities for the security of our allies—and particularly Taiwan—I urge you to examine this bill and amend it so that it will establish a normal relationship and friendship and commerce guaranteed for a long time with these people and their government, that is, the Republic of China on Taiwan.

If for some reason the People's Republic of China refuses to recognize that reality, I think that will be their loss and not ours, but I am quite sure that a country so hungry for our money, our grain, our technology is very unlikely to back off from the extraordinary bargain they got December 15, 1978, from President Carter.

Thank you very much.

[Mr. Cline's prepared statement follows:]

PREPARED STATEMENT OF RAY S. CLINE, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, GEORGETOWN UNIVERSITY

Mr. Chairman, distinguished Congressmen of the House Committee on Foreign Affairs:

You have been asked to approve a bill, H.R. 1614, that will retroactively implement and give legislative endorsement to the President's hasty, ill-conceived decision of December 15, 1978 to sell out Taiwan lock, stock, and barrel, territory and people to the Communist regime in Peking, the People's Republic of China (the PRC). In it the President avoids making any legal, binding, governmental commitment to Taiwan's security or permanent ties with the United States. This unprecedented indeed bizarre bill, H.R. 1614, is a Chinese fortune cookie baked by Chinese Communist Vice Premier Teng Hsiao-p'ing. It is being handed to you by the White House and the State Department, but the message inside was written in Peking.

The message inside is what counts. What it says is: The PRC, the world's most massively oppressive Communist dictatorship, is being given by the United States, by what international authority I cannot guess, our approval of its view that it has the legal right to seize total political control of Taiwan whenever it is able to do so. The more than 17 million determinedly non-Communist Chinese of the Republic of China residing under their own legally elected government on Taiwan, the Pescadores, and the Quemoy and Matsu island groups are being transferred against their will to become part of the PRC as if they were our chattel goods.

While the Carter Administration from time to time indulges in creative ambiguity to the point of downright duplicity on what was secretly agreed with Peking, let there be no mistake about it. As the PRC Chinese language version of the December 15, 1978 agreement and Premier Hua Kuo-feng's announcement in Peking plainly state, the United States "recognizes" that Taiwan is part of the Communist People's Republic of China and hence that the future of Taiwan is entirely "an internal affair" of the PRC. Gentlemen, it is your duty to pluck this message out of the glazed cookie dough of academic and legalistic doubletalk and read it out loud and clear to the American people.

Part of the irony of the Carter Administration's willingness to sacrifice Taiwan to curry favor in Peking is that, in fact, the formal constitution of the Chinese Communist Party contains a platform that is not only anti-Soviet but also anti-American. This constitutional position was most recently approved, unanimously, on August 18, 1977, four days before the U.S. Secretary of State Cyrus Vance's arrival in China. It states the Communist Party "unites with the proletariat, the oppressed people and nations of the world and fights shoulder to shoulder with them to oppose the hegemonism of the two superpowers, the Soviet Union and the United States, to overthrow imperialism, modern revisionism and all reaction. . . ." Personally I would insist on a change of that constitutional provision of the Chinese Communist Party before proceeding to de-stabilize our relations with Taiwan and making our fortunes in Asia hostage to the goodwill of the unstable, faction-ridden regime now dominated by 74-year old Teng Hsiao-p'ing.

If, at the White House bidding, the Congress is willing to accept HR-1614 as drafted it will be legislating the abandonment of an open society to Communist takeover by de-legitimizing its duly constituted legal government and declaring null and void its sovereignty—and hence its inherent right of self defense. This is exactly what the President hastily and furtively agreed to over the Christmas recess, capitulating to the PRC's persistent demands and extracting no guarantees of safety for the people of Taiwan whom President Carter himself has promised again and again to protect.

What is this political entity so cavalierly treated? Henceforth no member of the Carter Administration will call it the Republic of China. But it is called by the people of Taiwan and the Republic of China. There are still in force more than 50 treaties and agreements between the government of the United States and the government of the Republic of China, including a Mutual Defense Treaty terminated unilaterally by the personal act of the President but still in force through 1979. I do not scruple, therefore, to call it the Republic of China.

The government of the Republic of China controls nearly 14,000 square miles of territory, and is in population-size larger than most of the countries of the United Nations. It is, in fact, the 40th largest country of the 160 independent sovereign states of the world. It is approaching fully representative government with elections by secret ballot at village, county, city, and provincial levels. The people of Taiwan support their government fully as is indicated by a turnout of more than 80 percent of all registered voters in a recent island-wide election.

Taiwan is an island of hope, prosperity, and human liberty in an Asian sea of poverty and turbulence. There the best of American and Asian political philosophies and economic technologies have been blended to show how to modernize Chinese society without giving up freedom. The "modernization" of mainland China is a hope, a dream, quite possibly an impossible dream. In Taiwan it is a present reality.

It is hard to believe that the United States has adopted a policy of premeditated murder of this gentle and prosperous land. I raised this question in an article published in *The Asia Mail* of October 1978 and carefully warned both the State Department and the White House of the disastrous consequences that would follow the plan they had even then, to make a deal with Peking and cut Taiwan adrift. It is now scheduled to happen on March 1, 1979, and the Congress is being asked to approve HR-1614 as a legislative fig leaf to cover the naked truth.

The National Assembly of the Republic of China, its highest constitutional authority, and President Chiang Ching-kuo have declared during the past year that the Republic of China is an "independent sovereign nation." This means it has the inherent right to self-determination and self defense. It also has a half-million well-trained soldiers in its armed forces and, I assure you, they will fight for their freedom from rule by the Communist authorities of the PRC if they have to do so.

From official statements and testimony given before this committee, it is clear the White House and the State Department believe the Republic of China is not a sovereign state with a legal government. Yet, if 17 million Chinese people, with a free enterprise economy and trade with the United States seven times larger than American trade with mainland China, are governed effectively by a political entity with an international personality having all the normal attributes of sovereignty, then why does this bill so plainly try to imply the contrary?

The Carter Administration and its hired academics, the professional Polyanthas who tell you that Taiwan will be well off under the PRC, claim that we cannot deal with the Republic of China simply as the effective government of a sovereign state now controlling Taiwan, the Pescadores, and the Quemoy and Matsu islands. No matter what is said by my colleagues John Fairbank of Harvard, Doak Barnett of Brookings Institution, and Michel Oksenberg of the University of Michigan and—latterly—of the National Security Council Staff, an open society and free enterprise economy will not flourish if its international status is reduced to make it a subordinate province of a dictatorial Communist State with a centrally controlled economy and total police domination of its people.

The history of Tibet shows what promises of "autonomy" in the PRC are worth. Sooner or later, when they are able, at their leisure if they have received in advance American approval, the Communist leaders in Peking will try to assert the legal authority the Carter Administration proposes to give them to take over Taiwan by subversion, intrigue, assassination, economic strangulation, blockade, or outright military conquest.

When that happens the consequence will be war because the 17 million Chinese people of Taiwan do not want to put their high standard of living (four times that of the mainland) and their freedom in "blind trust" to the PRC, as if Taiwan were an American-owned peanut farm. Do not be misled by academic doubletalk about there being only one China. There is only one Chinese civilization but over history it has been divided into separate states under separate

governments for many centuries. Even the venerated Sinologist from Harvard, John Fairbank, wrote in *The Atlantic* of September 1976 that the concept of "one China" is "not a workable fact." He said, "The one China doctrine is one of those hoary Chinese devices for manipulating the unsophisticated barbarian." He is right. The Carter Administration has been manipulated and is setting out to manipulate the Congress and the people of the United States.

The fact is there are two Chinese states and two Chinese governments, and this has been the situation for exactly 30 years. President Carter said we should recognize reality. Reality is duality. The United States needs dual relations, one relationship with Peking, one with Taipei. There is no reason under normal standards of international law and custom why these relationships should not be equal.

Since 1949 American agreements and treaties have all been cast in terms clearly specifying that we are treating the Republic of China as the government of Taiwan and the islands controlled from Taiwan. The authorities of the Republic of China on Taiwan have accepted these arrangements. These authorities are willing to be recognized legally as the government of the Republic of China on Taiwan. If you do not believe me, ask the representatives of the Republic of China. They still reside in Washington in diplomatic status, although the State Department is threatening to expel them if the Congress does not do the President's bidding by March 1. The effective rule of Taiwan by the government of the Republic of China is a fact. It is not negated by that government's theoretical claim to represent all of the Chinese people. We recognize diplomatically many nations that claim territory not actually under their control, for example, Ireland which aspires to part of the United Kingdom. Such claims are not invalidating with regard to the sovereignty of the territory nations actually do control.

In other words, there is no legal reason why President Carter is obliged to break off diplomatic relations with the Republic of China simply because he decided to recognize the PRC.

Why did the President make this morally shabby deal? Surely the greatest nation in the world, the United States, has not made this extraordinary move to de-legitimize a nation with which we have had close and friendly ties for many decades just because the Communist authorities of the People's Republic demanded it! Are we a dependency of Peking or will we become one? Did Teng Hsiao-p'ing annex this country too in his recent royal procession through it? You know better and I know better. The PRC is an impoverished, backward nation hungry for our grain, our technology, and our money. Peking is not likely to reject normalization simply because we stand up for principle and maintain normal relations with the Republic of China on Taiwan.

For the record, no previous President was willing to undercut Taiwan's security with such an agreement. After issuing the Shanghai Communique of 1972 Henry Kissinger reasserted on President Nixon's behalf the flat statement in "State of the World" message sent to the Congress two weeks earlier. "With the Republic of China, we shall maintain our friendship, our diplomatic ties, and our defense commitment." No other nation that has recognized Peking has accepted such humiliatingly compliant language concerning the subordination of Taiwan as the United States used on 15 December 1978—not Canada, not Austria, not France. President Carter voluntarily gave the Chinese in Peking a promissory note on Taiwan, and unless the Congress restricts its terms, they can cash it at will. If there is a crisis over Taiwan in the future, and our relations with Taiwan are legislatively made "unofficial" and "nongovernmental," the United States will have lost any right under international law to intervene.

President Carter has made a bad bargain reflecting adversely on this nation's honor and credibility. In the bill before you the President is asking the Congress and the American people to bail him out by endorsing that bad bargain. The immediate result will be confusion and uncertainty about our strategic purposes in East Asia. The eventual outcome could be war over Taiwan. The proposed "unofficial" American relationship recommended in this bill is intended to permit this country to shirk its long-standing security guarantees to Taiwan.

HR-1614 as drafted is a transparent U.S. de-legitimization of the legally elected, constitutionally established government of the Republic of China.

It calls for a totally unprecedented, indeed unwarranted, and politically hazardous delegation of power over the conduct of American foreign relations with an important nation, the Republic of China, to a nongovernmental, unofficial, private nonprofit corporation registered in the District of Columbia.

You are being asked to assign total responsibility for the conduct of particularly sensitive international relationships to a group of private individuals answerable only to the whim of the President. This bill sets up a sham private institution to conduct public business, managed by foreign service and military officers arbitrarily removed from active service in a style reminiscent of the clumsier "sheep dipping" operations of a CIA paramilitary front organization in the palmiest days I can recall of secret covert action abroad.

The proposal is designed to remove from the normal Constitutional processes of political accountability in our Government an important element of our foreign policy, quite possibly a war-or-peace factor. The effrontery of this proposal is especially striking because it is precisely on this matter, our defense commitments to the Republic of China, that both Houses of Congress, and specifically the Senate in a vote of 94 to zero, last July, requested the President, in an amendment to legislation which actually became law under his signature, to consult with the Congress before making any substantial changes in our policy.

Gentlemen, this bill is a direct snub to the Congress. If that were its only shortcoming, I would assume you would know how to take care to protect your own prerogatives. The bill is also, however, the key legislative element in a drastic foreign policy reversal of traditional American positions in foreign affairs. President Carter's new China policy is geopolitically dangerous because it tends to align us with one giant Communist nation against another, the much stronger and better armed Soviet Union. It is fiscally irresponsible because it holds out promises of vast profits for American businessmen to be derived from trade with the PRC, which has nothing of consequence to trade and nothing but our loans with which to pay for its purchases. Beyond all that, however, and crucially important, the new China policy is deeply immoral in betraying a friendly nation to its mortal enemies. Such an act will undermine U.S. credibility as an ally worldwide.

The Congress should not pass HR-1614 in its present form. Instead I urge you to preserve the integrity of our international alliance system, now under siege in many quarters, by altering HR-1614 to give an official, governmental commitment to the security of Taiwan and establish a normal diplomatic relationship insuring friendship and commerce with its people and their government, the Republic of China on Taiwan.

I would like to conclude by suggesting the passage of an amendment to HR-1614 or, alternatively, a Joint Congressional Resolution including language along the following lines: At the end of the bill, HR-1614, add the following:

Whereas, on January 1, 1979, the United States established diplomatic relations with the People's Republic of China, and terminated official relations with the Republic of China; and

Whereas, it is the declared policy of the United States Government to "maintain commercial, cultural, and other relations with the people on Taiwan;" and

Whereas, it is the moral responsibility of the United States to continue to provide for the security of the people on Taiwan in a manner commensurate with the commitments of the Mutual Defense Treaty now being terminated; and

Whereas, the Government of the People's Republic of China exercises effective jurisdiction over 21 provinces on the mainland of Asia, but in no way exercises, nor has ever exercised, effective jurisdiction over Taiwan, the Pescadores, and the Quemoy and Matsu Islands; and

Whereas, the governing authorities on Taiwan, internationally known as the Republic of China, exercise effective jurisdiction over the island of Taiwan, the Pescadores, and Quemoy and Matsu Islands.

Now, therefore, be it resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, that:

1. Notwithstanding the establishment of diplomatic relations between the United States and the People's Republic of China, the United States acknowledges the fact that Taiwan and its adjacent islands remain separate entities apart from that territory currently controlled by the Government of the People's Republic of China, and that they remain under the political jurisdiction and effective government of the central governing authorities of the Republic of China on Taiwan;

2. Be it further resolved that, in order to facilitate the declared policy of the United States to "maintain commercial, cultural, and other relations with the people on Taiwan," and in view of the distinct political character of the Republic of China on Taiwan and its associated islands, the United States agrees to

extend to the governing authorities on Taiwan, and to their representatives in the United States, the following privileges:

- (a) continuing title to all property in the United States lawfully owned by the formerly recognized Republic of China;
- (b) full access to the United States courts in pursuit and defense of the rights of the people on Taiwan;
- (c) full access to United States Government officials; and
- (d) the same privileges and immunities as are enjoyed by diplomatic missions accredited to the United States.

Chairman ZABLOCKI. Thank you, Dr. Cline. The declaration on the part of the President on December 15 announcing the full diplomatic recognition of the People's Republic of China and termination of relations with the Republic of China on Taiwan is, I understand, the constitutional prerogative of the President. To establish diplomatic relations he need not necessarily consult Congress. The portion of the action, however, which terminated a treaty—

Mr. CLINE. That is a different matter.

Chairman ZABLOCKI [continuing]. Was another matter. Under the law, which the President signed as law, our bill required consultation by the executive branch with Congress. The executive branch did not comply with that, and this has been made indelibly clear to the executive branch, and that we did not like the failure to consult.

Mr. CLINE. I am glad of that, sir.

Chairman ZABLOCKI. The Chair certainly was not bashful in that respect.

Mr. CLINE. That I know, too.

LEGISLATION'S IMPACT ON TAIWAN GOVERNMENT

Chairman ZABLOCKI. But we are now under the gun and over the barrel; under a gun is bad enough, but when you are over a barrel, that is twice as bad. We are told, Dr. Cline, that if Congress does not enact some authorizing legislation for an entity—name it what you wish—if Congress does not act by March 1, this will be very unfavorable for Taiwan. The witnesses in the process of these hearings have made it clear that although some of the intent is not spelled out in legal language, the executive branch has repeatedly stated that it is their goal, their intent, to keep the relations with Taiwan exactly as before in the future, but not on a government-to-government basis, because there is only one China.

To what extent do you believe the Taiwanese Government will suffer if this legislation were not passed?

Mr. CLINE. I believe that the President and the State Department as well as the Congress is committed publicly to maintaining, as nearly as possible in its normal pattern, at least the commerce and cultural relations with the Republic of China. In my view, if for some reason, if this bill before you is not passed by March 1, it would be proof of intentions totally contrary to those announced publicly if the President and the State Department broke any of those relationships. I would suggest some sort of congressional remedy, however—perhaps a continuing resolution to permit no arbitrary break in diplomatic or trade and cultural relations while legislation is pending before the Congress.

In view of the fact that you were, as you said, not fully consulted, I think that is the least the Congress could request, and I do believe that what amounted to threats which I heard expressed by the Department are tantamount to blackmail, not only against the Republic of China but against the Congress of the United States. I do not think anyone likes to negotiate a complex and important and crucial matter with a time gun at his head. I believe that it would be disastrous to break those relations. It would be very hard to reestablish them on a cordial basis, and there is no reason in my view for breaking off any relations with Taiwan because, as Congressman Hansen said, they want to continue exactly as they are. They will continue with the very best arrangement that the U.S. Government—and I say the Government as a whole—will give them, and I believe that this committee and the Senate committee will make substantial improvements in that bill to give it a governmental and legal character which will make it acceptable.

I did not point out, Mr. Chairman, but perhaps this is the right time to do so, that at the end of my written testimony, I took an unaccustomed hand at suggesting language for a draft proviso to be added to the bill or passed as a separate resolution which would in effect preserve all the prerequisites of diplomatic relationships and some security commitment, even while not specifically fighting some of the language in the bill submitted to you.

I do not, like Congressman Hansen, pretend to be able to suggest language authoritatively to you, but only to spark a thought in the minds of the members of this committee, all of whom have a desire to do the responsible thing, and the responsible thing is to protect that relationship with our loyal allies in Taiwan, even while proceeding evenhandedly with the authorities in Peking.

EXECUTIVE ORDER

Chairman ZABLOCKI. Earlier in our hearings we were advised that the President issued a memorandum declaring that our relations with Taiwan through all agencies there should continue. Now, can this memorandum go on ad infinitum without any legislation authorizing what he has already done by Executive order, so to speak? I am not a lawyer, so—

Mr. CLINE. It requires a lawyer to answer. I am a historian, as you know. I do believe that since all of these matters have been legislated, and they have been legislated specifically for the Republic of China and the territory it now controls, I would think the President's order was valid and could be continued indefinitely if he chose to do so. Of course, I believe it is the responsibility of the Congress to supplement the new situation by a clear statement of our intent, which I hope you will be able to do in a much more affirmative and positive manner than the draft bill as presented to you permits.

ONE CHINA

Chairman ZABLOCKI. Well, as one Member of Congress who is very anxious to see that the prerogatives of the legislative body will prevail and that the executive branch will not meddle with us in our bailiwick,

I would ask if a President or an executive of any agency gets himself in a mess, what with having the laws on the books, why should we get in bed with him in a bad deal?

Mr. CLINE. I certainly do not want to suggest such behavior to you, Mr. Chairman. I certainly do not. Could I add one other thought in my capacity as a historian? I think it very important for all of us not to be befuddled by this idea of one China. It was embodied in the Shanghai Communique by a colleague of mine, Dr. Henry Kissinger, who was a master at creative ambiguity, but I want to remind you, as it says in my statement, that the Shanghai Communique, which spoke airily of all people believing in one China, all the Chinese, and the United States not challenging that proposition, is much less definite than what we have now done.

Dr. Kissinger told the press in an official press conference in Shanghai that the official view of President Nixon and himself was, we will continue to maintain diplomatic relations, our defense commitments, and our trade and friendship—I don't have the phrasing exactly—with the Republic of China as announced in the State of the World message delivered to Congress only a few days before the Shanghai Communique.

I happened to encounter Dr. Kissinger this morning. He works in the same institution, not the proposed nonprofit private institute, but Georgetown University's Research Center, where I work, and I again, only a few hours ago, asked Dr. Kissinger: "Did you and President Nixon ever give any assurance of normalization on the terms that Peking dictated and President Carter accepted?" And he said, "Absolutely not. I am on the record repeatedly on this point." It is unfair to suggest that the Carter decision was the same one as the Shanghai Communique decision, which was to normalize with Peking but on terms where we preserved our relations with Taiwan.

Now, there is a large group of professional Sinologists who say to the contrary, but I must say the dean of all of them, the one who trained most of them, is John Fairbank of Harvard—emeritus now—and I cannot account for John's views today, which seem to me sometimes a little erratic, but I can tell you that only 3 years ago, in 1976, he told the exact truth about the "one China" matter in an article that he wrote for the Atlantic. It was published, and he said in there that in view of the history of China, which has been divided many times—I am paraphrasing now—he said that one China is "not a workable fact."

Then he said, "The one China doctrine is one of those hoary Chinese devices for manipulating the unsophisticated barbarian."

I think the Carter administration has been manipulated by Peking, and it is now attempting to manipulate the Congress and the people of the United States, and I think it very important to get the truth on the record.

Mr. SOLARZ. Off the record.

[Discussion off the record.]

Chairman ZABLOCKI. You can put this on the record, because I have a high esteem for my colleague from New York, Mr. Solarz. After you came to this committee, Congressman, I had to improve. [Laughter.]

Chairman ZABLOCKI. Let me assure you that I have restrained myself in my comments. What I have thus far put on the public record is only a fraction of what I could have said.

Mr. SOLARZ. Well, let me say, Mr. Chairman, it has immeasurably enlivened these deliberations, and I hope you will continue to give vent to your innermost feelings about this and any other matter that comes before us.

Chairman ZABLOCKI. Let me further say to the gentleman that we are going to mark up the bill, and if it were a germane amendment—I would have to clear it with you since you are an amendment specialist—I would insist that every member of the National Security Council be a poker player.

Mrs. FENWICK. Be what?

Chairman ZABLOCKI. Be a poker player, so they don't lose their pants when they go to Peking.

[General laughter.]

Chairman ZABLOCKI. I have forgotten the last question.

Mr. Lagomarsino.

Mr. CLINE. That was a good answer to your last question, whatever it was, Mr. Chairman.

Mr. LAGOMARSINO. Thank you.

INTELLIGENCE IMPORTANCE OF TAIWAN

You know, the thing that concerns me is not our pants but the pants of all those people on Taiwan we ought to be worrying about.

Dr. Cline, you have a long and distinguished career in the CIA, and you referred to it earlier. Now, to what extent would you say that Taiwan has been an important source of intelligence to us with regard to our new found allies on the mainland, the mainland Chinese?

Mr. CLINE. Well, Mr. Lagomarsino, you are raising a very important question, which I have not seen touched on in any of the discussions about our relationships with the Republic of China. It is particularly relevant at this time, since we seem to be losing some important intelligence facilities based in Iran, in the Mideast, which may in fact diminish our intelligence capabilities so much that we will not be able to verify the SALT agreement. To have a loss of any serious sort in our Asian intelligence collection system would seem to me to be very tragic right now, and particularly when developments in mainland China, and even more relationships between the Soviet Union and the People's Republic of China could bring hostilities at any moment. Particularly in these situations we need good intelligence about Asia.

Now, I cannot as a former intelligence officer give you any details to answer your question, sir, but I would like to say that a very substantial portion of what this country knows about what goes on on mainland East Asia has developed in exchanges with the Republic of China on the island of Taiwan, and I know of no government which has been more cooperative in intelligence matters over many, many years—going even back before World War II—than this Government, and it has continued until quite recently.

As long as I was in the Government—I ended in the State Department in 1973—a very substantial part of our knowledge about what was happening inside the People's Republic of China came to us

through the intelligence services of the Republic of China because Peking was hiding them from us. I have no reason to believe that they will open up any more in the new circumstances, and I am sure our loss will be considerable.

Mr. LAGOMARSINO. Can you think of any alternative for that; that is, how we might replace the loss, if it is a loss?

Mr. CLINE. I do not think there is any alternative. You would have to take second best remedies, which would be to increase your efforts in places like Korea and the Philippines, but it must occur even to the most innocent layman that if you want to find out what Chinese human beings are thinking and doing on the continent of Asia, the best way to do it is to have other Chinese human beings talk to them.

I can assure you if you or I go to Peking, as many Americans have been doing lately, that neither you nor I would penetrate their inmost thoughts, because there is something about our faces that would remind them that they are not talking to their own people. So, the reliance upon the Republic of China has been a great intelligence boon, although obviously it is impossible to quantify.

Mr. LAGOMARSINO. I might suggest that we have had diplomatic relations with the Soviet Union for well over 50 years, and we still have to employ intelligence to find out or attempt to find out what is going on there, so I certainly concur with your feeling about the fact that even though you now have diplomatic relations with the People's Republic, it is not going to make it any easier or less necessary to obtain this information.

Mr. CLINE. Exactly. A closed society hides its state secrets and all of those things which we open up to newsmen. That is why it is so important to have human sources.

REPUBLIC OF CHINA INFORMATION OFFICER

Mr. LAGOMARSINO. In the Washington Post on Tuesday, January 30, there is a picture of a gentleman named Ray S. Cline. It does not look like you, but maybe it is only because this was taken when you did not have a beard, but the story is talking about Mr. Low, who was recalled from this country, as I understand it, and it quotes you here. Would you tell the committee about that? Can we get this on the record?

Mr. CLINE. All right, Mr. Lagomarsino. I thought I was under cover when they ran a picture of me about 10 years old with no beard, and that no one would recognize who it was, but you have blown my cover now, so I might as well tell you the truth. A few days ago, just before this story was printed, a newspaperman approached me saying that there were at least 20 sources in this city, including some inside the State Department, who had pointed out that the State Department had threatened to declare persona non grata one Gene Low, a public information officer working for the Republic of China in New York City.

He has been here many years. He happens to be an acquaintance of mine, not a close friend, but I was told, not by Gene Low, who kept absolute silence on this subject for fear there would be repercussions on other of his colleagues, but by many newspapermen who knew him and by junior officials in our Government that he left on 72 hours' notice because he had the temerity to print, to have printed, to permit

to be printed, two letters in New York papers expressing his deep disappointment over the President's decision made on the 15th of December.

I was not aware that foreign officers were prohibited from expressing their opinions about U.S. policy. I rather thought that was why they were in the United States, and I rather thought that was such a poor performance when the newspaperman said to me, "Of all the sources—and there are many for this story—none will allow himself to be quoted, so would you allow yourself to be quoted?" I said, "To hell with it. Go ahead and quote me." I did not expect him to run my picture in the paper.

Mr. LAGOMARSINO. Good for you. I find that difficult to believe. You are not saying that this administration, which places such high emphasis on human rights and free speech, would do something like that?

Mr. CLINE. Do I have to answer that? I think you can answer it.

Mr. LAGOMARSINO. It is hypothetical.

Chairman ZABLOCKI. Mr. Solarz.

Mr. SOLARZ. Thank you.

VIEWS ON H.R. 1614

Dr. Cline, if the Congress in its wisdom decided not to adopt the resolution which you recommended as an amendment to the administration's omnibus legislation, and it came down to a choice of passing the omnibus bill more or less as it is at present or not having anything, what would you advise us to do?

Mr. CLINE. That is a very difficult question, Mr. Solarz. I can only give you my own personal judgment, which is based on a feeling of moral responsibility for doing the right thing more than an assurance that it is the expedient thing. I would let the bill die, because I think this bill is so carefully calculated to remove legal, governmental, official responsibilities from the United States that it is intended to insure that after a decent interval, we could allow all relations with Taiwan to go.

So, it does not give Taiwan anything valuable.

Mr. SOLARZ. Well, I think this is an important point. Let us just assume, for the purpose of discussion, that we have a mutual interest in the peaceful future of Taiwan. Let us further assume that, rightfully or wrongly, there is not enough support in the Congress to pass the kind of very strongly worded resolution which you recommend as an amendment to the omnibus legislation. Given the extent to which the President is the Chief Executive Officer of the country and does not have the right to establish diplomatic relations with whatever country he wants, and, assuming further, that constitutionally he has the right to terminate the Mutual Defense Treaty and the Goldwater suit is found wanting in the courts, then in effect it would be a fait accompli; that is, his decision will have severed relations with Taiwan and established them with Peking and terminated the Mutual Defense Treaty.

Just assuming that those realities are given, are the people of Taiwan better off in your judgment at that point without this omnibus legisla-

tion or with it? And if they are better off without it, I think you should indicate precisely what way they would be better off without it, given the other assumptions I have given you.

Mr. CLINE. You have assumed away a good bit of the problem, as you recognize, Mr. Solarz, so we are being a little scholastic at this point, but nevertheless let me try to calculate the angels on the head of this pin.

I think that the important thing for the Republic of China and for us is whether or not the Republic of China remains able to act on behalf of its citizens as a legal government of a political entity with international personality. Those are all key words in international law, as you know.

I believe this bill tends to undermine any such claims, and if you listen to administration witnesses, they in effect say, we want Taiwan unified, by which they mean part of the People's Republic of China. Therefore, if we pass this bill, we are adding to a momentum which will bring this group of people under Communist control.

Mr. SOLARZ. Given the fact that the President has severed diplomatic relations with Taiwan, does not this legislation at least provide some vehicle, even if it is not from your point of view satisfactory, for us to maintain some kind of relationship, whereas if the legislation is defeated, everything is left in a total limbo?

Mr. CLINE. Mr. Solarz, it is such a bad answer to the question. Just as you are sensitive—I am happy to see—to the rhetoric and feelings of the chairman, I am sensitive to the fact that you can devise better language for this bill, and that you can improve it in some ways which might make it better than nothing. As it stands now, I am not at all certain—I told you I was giving my own moral judgment—I am not certain that it is better than nothing. It may be a little worse than nothing.

Mr. SOLARZ. But you are not sure it is worse than nothing. You say it might be. If the Congress were to accept your recommendation and adopt as an amendment this resolution that you recommend, which comes pretty close to reaffirming our commitments under the Mutual Defense Treaty, what impact would it have, Dr. Cline, do you think, on Peking in terms of their willingness to continue the policy of normalization? Would you expect them to proceed as if nothing had happened, or would you expect them to say the United States has violated the understandings we have reached with the administration and the deal is off?

Mr. CLINE. Now you are asking a really relevant question. That is not just hypothetical. I am quite convinced in my own mind that at this stage, if we did exactly what you suggested, the People's Republic of China would still be setting up their Embassy in Washington, would still have their hand out to our Treasury, and would be inviting our businessmen to sell their technology to them. I am sure they also would criticize along the lines you suggested.

CREDIBILITY OF U.S. COMMITMENTS

Mr. SOLARZ. One final question. You indicated in your testimony that this policy normalization has in effect undermined the credi-

bility of our commitments as a worldwide ally. We had testimony from Secretary Christopher to the effect that virtually all the other countries around the world felt this was long overdue and he assured us that it has not in any way undermined the credibility of our commitment.

Can you offer any evidence to sustain the arguments you made that normalization has undermined our credibility?

Mr. CLINE. Yes, sir. I do not want to waste time so I will refer you to a very careful statement made before the committee in the other body yesterday by Professor Scalapino, a very distinguished scholar who has just returned from the Far East and who spoke quite eloquently about the disappointment expressed to him by very high officials in other Asian governments.

I have had the same experience. Let me also, to help you face this terrible dilemma, explain to you that, as I know from my own personal experience, when the U.S. Government takes a new policy direction, it customarily sends out a circular to all embassies saying, "Go downtown and consult the Foreign Office and ask them if they do not approve of what we have done." I have never seen a cable come back that did not say, "Yes, of course we approve of what the United States has done."

Furthermore, Mr. Christopher did not say they approved of breaking relations with Taiwan. What they were talking about is, they did approve our establishing diplomatic relations with Peking, with which I have no fault to find.

Chairman ZABLOCKI. Mrs. Fenwick.

PRACTICE OF OTHER COUNTRIES

Mrs. FENWICK. Thank you, Mr. Chairman. I was interested in your testimony on page 9, in which you speak of the ways in which Canada, Austria, and France derecognized—I don't know the exact words—

Mr. CLINE. Right.

Mrs. FENWICK. What did they do?

Mr. CLINE. Back then, it was an article of faith in the minds of almost all the people who had had relations with the Republic of China that somehow they would squirm out of recognizing that Taiwan was part of the People's Republic. What Canada did is say, "We take note of the Chinese view about that." That was something very much like our Shanghai communique.

A number of nations said, "We recognize the Chinese view." Nobody said that, "We accept it."

Now, a number of nations, smaller nations, it is true, have been able, it seems, to recognize Peking without saying anything about Taiwan, so I do believe our record is the worst, particularly because, as I believe I suggest in my testimony, the Chinese text is, after all, what will affect the billions of people in Asia much more than our text, although the State Department considers our text binding.

They use the word "acknowledge," which is ambiguous in English. They acknowledged the view that Taiwan is part of China. The Chinese translated that as *cheng jen*, which means "recognized, as one government recognizes another." It is a very solid form of recognition. It also means other things, and of course there is ambiguity, but

I believe, Mrs. Fenwick, that we did take a step farther than anybody has in the past.

Mrs. FENWICK. Did they keep embassies on Taiwan, too?

Mr. CLINE. The British solution, as you know, was to normalize, if you can call it that, in 1950 promptly. They had their Embassy burned down and had a lot of trouble, but they stuck it out. For 20 years they kept a consulate in Taiwan and maintained consular relationships with Taiwan on a separate basis.

After our Shanghai communique and the Japanese move, they closed their consulate, but they made no declaration. They never acknowledged specifically that I am aware of that the People's Republic of China—the Government—owned Taiwan.

TAIWAN CLAIM TO JURISDICTION OVER CHINA

Mrs. FENWICK. The problem is—and I don't know whether you were here when the chairman repeatedly questioned Congressman Hansen as to whether the government on Taiwan still claimed jurisdiction over mainland China, but as I remember Congressman Hansen's response, it was in effect, no, because he thought that even to ask such a thing would be insulting.

Now, do I recall that correctly?

Mr. CLINE. Well, it was not a crystal clear exchange.

Mrs. FENWICK. Well, it was crystal clear to me that he had not asked that and he did not think we should ask that, and that in effect I would suspect they still do want to be called the Republic of China.

Mr. CLINE. Of course, they want to be called the Republic of China on Taiwan.

Mrs. FENWICK. But it is ridiculous. They ought to be called the Republic of Taiwan.

Mr. CLINE. Why not the Republic of China on Taiwan? They are Chinese people, you see. You see, Chung Kuo is "China." And it is also the adjective "Chinese," and for any Chinese person to say that he is a citizen of a country that does not have that word in it seems ridiculous to him.

Mrs. FENWICK. To me, they got back the island of Formosa at the end of World War II.

Mr. CLINE. We did not recognize that as you know.

Mrs. FENWICK. I know, but that is the fact. And they decided 4 years later to call themselves the Republic of China.

Mr. CLINE. They were the Republic of China since 1912. That has always been their name. That is why they feel they do not have to change. They feel that if anybody stole the name, the Communists did.

Mrs. FENWICK. In other words, you are agreeing with the Congressman that they still want to be called the Republic of China?

Mr. CLINE. They are perfectly willing to add the words "on Taiwan," which does modify it. In other words, the Chinese Republic on Taiwan and the Pescadores. That would translate exactly the same in the Chinese.

Mrs. FENWICK. Well, maybe it is a matter of some prestige that is oriental and escapes me, but I think it perfectly ridiculous.

Mr. CLINE. Well, would you like for this country to be called the United States of Texas or of New York?

Mrs. FENWICK. No; I would want it to be called the United States of America and not the United States of the United Kingdom. That is what the comparison is, because we came from Britain the way they came from China, and we decided to be independent, and if we still wanted to call ourselves the United States of Great Britain or the United States of the United Kingdom, that would be ridiculous, but even to go back to your reference to Ireland: Cosgrove is like mainland China, and he is an example for mainland China, in my opinion, because what did he say here in the House of Representatives? Eire controls the major portion of Ireland except the six northern counties, but he said in a magnificent declaration that he would like the return of the six northern counties but only by a free vote of a free people and not by—

Mr. CLINE. Not by force. That is what the Chinese in Taiwan want.

Mrs. FENWICK. But it is not. Taiwan is not hoping to get a free vote of a free people by the 900 million people in China, are they?

Mr. CLINE. I assure you that many serious scholars in Taiwan—Chinese, and all people living in Taiwan, are Chinese, you understand—

Mrs. FENWICK. No; they are not. There are many aborigine Taiwanese too.

Mr. CLINE. All right, I will accept a couple of hundred thousand, Mrs. Fenwick. You are one upping me on your special knowledge, but 17 million people in Taiwan are Chinese.

Mrs. FENWICK. Some have been there for 300 years and some have been there for 30 years, and that is the difference.

Mr. CLINE. It is a cultural difference and a very important one, but one that is being eliminated, as Congressman Hansen said, with the passage of time, education, and intermarriage and so on. Those people do seriously hope that in their lifetime or in their children's lifetime there will be a chance for a free election in all of China, and that is what they do not want to renounce.

Mrs. FENWICK. And for their government to be established in China?

Mr. CLINE. I think most of them do not believe it will happen soon enough for their government to be relevant to the issue. When they say they want to reunify China, they mean peacefully and they mean in the very long run. They want China not to remain a Communist dictatorship and that is what I want, and I expect that is what you want.

Mrs. FENWICK. Well, my time has expired.

Chairman ZABLOCKI. Mr. Pritchard.

Mr. PRITCHARD. Thank you, Mr. Chairman.

Chairman ZABLOCKI. I am sorry. You must have been out of the room or I would have called you sooner.

Mr. PRITCHARD. I am just very quiet, Mr. Chairman, and I do not mind having the lovely lady from New Jersey go ahead of me. It is fine with me.

Chairman ZABLOCKI. I promise to see an optometrist and get my glasses fixed. Forgive me.

Mr. PRITCHARD. I guess I just have to pursue this a little further, Dr. Cline.

Mr. CLINE. I wish you would.

Mr. PRITCHARD. Would you say the authorities on Taiwan have renounced their claim to govern the mainland?

Mr. CLINE. No.

Mr. PRITCHARD. They have not done that?

Mr. CLINE. They have not renounced their claim.

Mr. PRITCHARD. I understand. Are the authorities on Taiwan now prepared to accept recognition as solely the government of Taiwan?

Mr. CLINE. And the Pescadores. It includes the islands. The answer is yes if it includes the islands.

Mr. PRITCHARD. Why that is hard for me to accept is that I was in Taiwan 3 weeks ago and we asked the President that question. Now I know that with interpreters back and forth, it is always difficult, but in essence we said, "would you be willing now to be the government on Taiwan, so that we can recognize you as a separate nation?" And he said, "No."

Mr. CLINE. Mr. Pritchard, I do submit that language and definition problems are very difficult in this regard, and I welcome you to the group, that includes almost everybody. You do get confused on this issue. If Mrs. Fenwick and I cannot get together on what the meaning of "Chinese" is, I submit it is a tricky problem.

Now, I do not think we ever asked them the right question. You started out the right way: Ask them if they are willing to let the authorities that they in their own society in Taiwan call the Republic of China be recognized as the governing body of the territory of Taiwan and the Pescadores, and Quemoy and Matsu, and they would say, "Yes."

Mr. PRITCHARD. I thought that is what we asked them.

Mr. CLINE. I do not think you did, because people tend to slip over into what Mrs. Fenwick was suggesting, and that is that you make them omit the word "Chinese" from their own name, and that is where they draw the line. They are not arguing that they control the Mainland. Good God, they know they do not control the Mainland. They wish that some democratic institutions could be established there, and I know that President Chiang Ching-kuo feels in a period of a decade or so the particular form of the totalitarian government that is there now will somehow melt away because it is not compatible with the real old Chinese culture, which he still believes resides among the Chinese people. I do not know whether he is right about that or not. He does not even say it will happen tomorrow. He says it will eventually happen. That is the claim they do not want to renounce.

Mr. PRITCHARD. Well, I thought we made it pretty clear when we talked to him.

Mr. CLINE. Well, may I suggest you ask him the next time: If the United States offers to continue diplomatic recognition and diplomatic relations with you, the Government of the Republic of China on Taiwan, as the government in control of Taiwan and the Pescadores, that territory and those people only, would you want it? And they will say, "Yes." They will say: We have not given up our ultimate hope or claim that there will be a China which will be the legal heir to the Republic of China, which was established in 1912 and still exists.

NATIONAL ASSEMBLY

Mr. PRITCHARD. I understand. The other point, of course, is that the National Assembly, which you talk about, is made up of people who

were elected 30 years ago, if they were elected, and came from the mainland, and are now dying off. It is very hard to say that this is a National Assembly of China because—

Mr. CLINE. Well, it is the only National Assembly of China that has been legally elected in this century. The one on the mainland, as you know, is not.

Mr. PRITCHARD. I realize that.

Mr. CLINE. So if we are making comparisons, that is important.

Mr. PRITCHARD. I was not making comparisons. I am just saying it is a little hard because they have not changed.

Mr. CLINE. There have been some elections. Just for the record and since you mentioned it, that body and the legislative branch of their government has had elections frequently since 1949. The last one was to have been the best one. I agree, it was a pity it was not had, but there have been many elections and—

Mr. PRITCHARD. The timing was a mistake on the administration's part.

Mr. CLINE. But despite that, province, county, district elections are held quite often. They are open. There are secret ballots. There is more than one party, contrary to what I have heard people say, so there is more than one political party. There is in effect an open society with at least the main elements of a democratic electoral process, and I would like to see it developed further.

THREAT TO TAIWAN

Mr. PRITCHARD. Do you feel that this action by the administration is going to allow the mainland to swallow up the 17 million Chinese?

Mr. CLINE. After a decent interval.

Mr. PRITCHARD. How soon would you guess, as long as we are guessing today?

Mr. CLINE. I feel as if I were again in charge of intelligence estimates. I am always being asked those difficult questions. I left the Government so I would not have to answer them.

Mr. PRITCHARD. That is the great joy, when you sit at that table.

Mr. CLINE. Let me tell you that I believe that, lacking a governmental official relationship between the United States and this entity, which as I say I like to call the Republic of China because they do, there will be no credible security guarantee. This will in time diminish economic contacts with the island. There will be, and as Congressman Hansen said, in fact there has already begun a tacit effort at economic strangulation, at making people choose between the mainland and Taiwan. There will be in time a request that all airline agreements, all long-range loans, all kinds of important economic things be certified in Peking.

Of course, they will say it is autonomous. You will go right ahead for a year or two, but they will have to be approved, and gradually they will dry up.

I am sure that the very successful and canny businessmen on the Island of Taiwan and their government will resist this, and I feel sure eventually that strangulation will come to in effect a boycott and economic blockade, and there will be a war over it, and that is when the people will say: where are those security guarantees that everyone in the United States was talking about?

Mr. PRITCHARD. By a war, do you mean an invasion?

Mr. CLINE. No, I do not think it will be an invasion. I think it will be a blockade. I think a blockade could occur—I think economic strangulation has already begun, very minor. Surely I do not have to explain to you that when Teng Hsiao-p'ing says, "All will be autonomous," he means autonomous like Tibet, where they said exactly the same thing in the early years, and then conquered it with military force and expelled the Dalai Lama. Nor do I need to explain to you that when Teng Hsiao-p'ing says everything will be happy, they can have their own society, their own form of government, so long as our flag runs up their flag pole, well, that means, so long as the real policy decisions are made in Peking.

The people of Taiwan will not accept that flag. That is what they are fighting about: sovereignty. They feel they must protect themselves.

After the economic pressure lasts about 2 or 3 years, assuming no other major changes in the world, I would expect it would be enforced by a declared blockade. That is when fighting would begin, and the People's Republic of China will try by attrition to wear down the Chinese Nationalist Air Force, which is superior but much smaller. And if we have not by then given them a lot of new aircraft and had them fully trained, that is when the war would come, and there would not be an invasion, there would be chaos on the island, which would end if we did not do anything, Mr. Pritchard, in the domination of Taiwan by the People's Republic.

Mr. PRITCHARD. Do you think we will do anything?

Mr. CLINE. No, not if we pass this bill and declare that we are not protecting a legal national entity, a political entity with a legal international personality. We have no right. What right would you say you had to send American soldiers to fight in a province of the People's Republic of China?

Mr. PRITCHARD. There are many other ways you can help a country besides sending troops.

Mr. CLINE. Well, all right. What right would you have to send equipment to such a province? Internationally, this bill ratifies the President's and State Department's decision that by right those islands belong to the government in Peking. That is what we are talking about, and I don't see how we can sign that kind of bill and then say, well, we really might help them out if they get in trouble.

Mr. PRITCHARD. My time is up.

Chairman ZABLOCKI. The Congresswoman from New Jersey.

Mrs. FENWICK. You mentioned a blockade, and mention was made of a blockade yesterday. Apparently the waters are so wide—you know, the territorial waters, the high seas waters—that we should interfere, and also we have antiblockade legislation. We did it originally with the Middle East, but there is no reason it should not apply here, but it is a melancholy drama you outline for us, and certainly with 17 million people the responsibility is grave, but the only thing that I cannot get clear is that Britain recognized China, withdrew their consulate from the island, and nothing happened. France, Australia, Canada. There are only 20 nations left in the world out of 160 that have diplomatic relations with Taiwan. Is it so incredible that this Nation should do that also?

MUTUAL DEFENSE TREATY

Mr. CLINE. Mrs. Fenwick, I have talked to many officials from those countries you are talking about over a 25- or 30-year period. Every one of them has taken this action in the full expectation that their interest and their connections with Taiwan would be protected by our security treaty. That is what the issue is.

We are eliminating the security umbrella from the area. We are not normalizing the situation in East Asia. We are denormalizing it with a very important, with a small but very important part of East Asia.

Mrs. FENWICK. You mean all those German associations and French, et cetera, that are on Taiwan, that is only because of our defense treaty?

Mr. CLINE. I think it is possible mainly because of our defense treaty. I think most of them believed that the United States would never as they say, desert Taiwan, and they meant maintain a security treaty with them. It was a permanent treaty.

Of course, it had a provision for 1 year's termination, as you know, but it said, "We will permanently protect not just Taiwan"——

Mrs. FENWICK. I believe it did not say permanently.

Mr. CLINE. I think the word "permanent" is in there.

Mrs. FENWICK. It said, we will protect.

Mr. CLINE. Somewhere in the treaty, if I remember right, the word "permanent" is there. I think the provision for termination says, "This treaty will be permanent unless one side is given a year's notice." It was really intended to be long term and that is what they were counting on, and I think our abrupt removal of that treaty is what destabilizes expectations in the region. I do not know exactly what will happen, but I was asked by Mr. Pritchard to spell out what I expected to happen, and I am very concerned that it will, and I do not care whether you call it the Chinese Republic of Taiwan or anything else, Mrs. Fenwick, if we recognize it as a legal entity governing that area and we have a security responsibility to it which the Congress as well as the President has legislated on, because then there is some security.

Mrs. FENWICK. I understand. Certainly we could not move without something that would give validity to the contract.

I was horrified with Congressman Hansen's suggestion that if the Marines were withdrawn and the colony was left, that the people's lives could be in danger.

Mr. CLINE. I think you misunderstood Congressman Hansen, or perhaps I did, but in any case what I believe is certainly not that the Republic of China on Taiwan would endanger any American lives. They are in the position of frightened and rejected people in their feelings about their American friends, but they want them very badly. There is no problem of that kind. I have a feeling that what, at least I thought, Congressman Hansen was saying was that in the absence of official and legal commitments from the United States, eventually disorders and subversion and intrigue and infiltration would occur and the public order might break down, and then there would be no formal place for us to intervene.

Mrs. FENWICK. Not that the Government would be unwilling to protect them?

Mr. CLINE. Oh, no, I do not think he meant that, and I certainly did not mean it in any sense.

Chairman ZABLOCKI. This is not a question but a closing statement. Dr. Cline, I perceive this as a mess. What the Congress now must do in my opinion is to salvage as much as we can in order to keep our relations with Taiwan, an old friend and ally, on a continuing basis. There is no doubt in my mind that the President has under his authority, the legal right to recognize a country and establish diplomatic relations. On the other hand, I think the Congress has a right to tell the President that they are unhappy if he breaks a treaty without the approval of Congress and discontinues diplomatic relations with an ally and a friend.

I view it as our task at this time to write legislation. I am told that if we write legislation which makes the President unhappy—or if not the President, some of his advisers, his kitchen cabinet, the brain kids in the NSC—he will veto it, that is it, and nothing will happen. But if nothing else, it would be an excellent opportunity to educate our executive branch that there is a Congress, to educate the People's Republic of China that we have a tripartite system of government, and that there is a Congress; and, of course, to give assurance also to Taipei that if the U.S. Government does not remain friendly, the people of the United States will remain friendly.

The only problem I see is that because of the support of the President's move by big business, the bankers, some of the farmers who envision that billions of dollars of wheat and farm commodities will be exported to China, unfortunately we will not have the amount of support behind a moral principle that this Congress ought to have the courage to exercise.

So, what we must do is to doctor this bill to such extent that it will be less objectionable, to put it in a more positive viewpoint, to make it more palatable, and then trust for the future that our mistakes will be forgiven.

Well, I guess we had better quit this before I wax more eloquent. Mr. Solarz is not here, so why should I continue?

Mr. CLINE. May I congratulate you on that eloquence? I think that was a very fine statement of your problem. I want to say that I believe that polls and other very scientific samplings have clearly demonstrated that two-thirds of the American people feel the way you do, that they want to have improved relations with the People's Republic of China, but they do not want in any way to have that damage our relationship with the Republic of China. It has been tested over and over and over, and I think—well, I hope that there is some institution in our Government, I will say, who will stand up for what I think is the right solution, and if your particular legislative remedy is too strong for the President and he vetoes it, I think it would be an educational thing, and then you can send him back one just almost as strong, and see how far down the scale of shirking responsibility the White House is prepared to go without the support of the Congress.

That is not a recommendation. It is a comment on your eloquence.

Chairman ZABLOCKI. Dr. Cline, given, as you have stated, and it is true in my opinion, at least, that this is the sentiment of the American public, given this sentiment, it was inevitable and it was advisable as a

matter of fact to have full diplomatic relations with the People's Republic of China. But we have a golden opportunity at this particular time, given the political situation in that area of the world and our dealings with the Soviet Union, of opening diplomatic relations with Peking but retaining diplomatic relations with Taiwan. I cannot for the world imagine that Peking would not have agreed, and I personally feel that the day after we accepted every one of their conditions and until this day they are wondering why we did it.

The committee stands adjourned.

[Whereupon, at 3:40 p.m., the committee was adjourned.]

APPENDIX 1

QUESTIONS SUBMITTED BY HON. CLEMENT J. ZABLOCKI, AND DEPARTMENT OF STATE RESPONSES

1. Will there be any delays to the persons and companies which previously would have gone to the U. S. Embassy or Consulate on Taiwan, as a result of the fact that they would now have to go to an unofficial entity such as an "Institute?"

How will you handle visa applications? Notarizations?

What happens to material hitherto transmitted by diplomatic pouch?

The American Institute in Taiwan (AIT) will be staffed by experienced personnel assigned to the Institute on detached service. They will provide the same business services as provided heretofore by the Embassy. Persons seeking visas to visit the U. S. for business or tourism will complete applications at AIT, which will transmit them electrically to our Consulate General in Hong Kong. There will be no significant delay for the applicant.

Materials hitherto transmitted by diplomatic pouch will move in and out of Taiwan by escorted courier pouches.

With respect to notarials, specific authorization in the legislation for such employees to perform notarial functions will assure that these services will continue to be provided without interruption.

2. The legislation proposed by the Executive branch does not state explicitly that the various agreements between the U. S. and the Republic of China which were in effect prior to the withdrawal of recognition continue in effect. Wouldn't it help resolve any uncertainty about the continuing legal validity of those agreements (especially major agreements such as the Treaty of Friendship, Commerce, and Navigation and the Atomic Energy Co-Operation for Civil Uses agreement) if the legislation enacted by the Congress expressly states that, as far as the U. S. is considered, those agreements continue to be valid?

There is no need to include such a provision in the legislation because our agreements remain in force by operation of international law and the President's Memorandum of December 30, 1978. However, the Administration would not object to such a provision if it was carefully drafted to avoid statutory inhibitions on future terminations or amendments.

3. Will taxes paid by U. S. companies to the authorities on Taiwan be eligible for treatment as foreign tax credits under the Internal Revenue Code?

Yes, assuming they qualify under applicable provisions of the Internal Revenue Code. The Presidential Memorandum and Section 102 of the Administration bill confirm that the term "foreign country" includes and applies to the people on Taiwan for all purposes of United States law.

4. Will representatives of the Taiwanese authorities--for example, employees of the Taiwanese counterpart to the American Institute on Taiwan--be required to register with the Justice Department as foreign agents or will they be exempt as official representatives of a foreign government?

It is not our intention that employees of the Taiwan counterpart be required to register, but they will not be exempt as "official representatives" of a foreign government.

5. The U. S. immigration laws provide a quota of 20,000 immigrants from each country. In the past, there has been a single "China" quota encompassing immigrants from both Taiwan and the mainland. Your proposed legislation appears to say that, for purposes of applying U.S. domestic law, Taiwan is to be considered as a distinct entity and is not subject to all of the provisions of law which apply to the People's Republic of China (for example, prohibitions relating to Communist countries). Does it follow then that there will be separate immigration quotas for the PRC and for Taiwan? In other words, that there could be 40,000 immigrants each year from "China"?

No. Since 1952, there has been one foreign state limitation for China that included Taiwan. The Administration bill does not require any change in this treatment, and there does not appear to be any reason at present for such a change.

APPENDIX 2

QUESTION SUBMITTED BY REPRESENTATIVES JONATHAN B. BINGHAM AND MILLCENT FENWICK, AND DEPARTMENT OF STATE RESPONSE

Will the A.I.T. have powers which instrumentalities created by other countries do not have? Will it be able to conduct relationships or carry out programs which other countries cannot? Are there functions the A.I.T. cannot perform which other countries' instrumentalities can?

In terms of the powers it will have to carry out relationships, AIT will be essentially the same as the unofficial offices established by other countries. Because the U. S. relationship with Taiwan is more complex than that of most other countries, AIT necessarily must carry on more functions than do the instrumentalities created by other countries. For example, no other country except Israel sells weapons to Taiwan in significant amounts, and no other country has a nuclear cooperation agreement providing for the application of nuclear safeguards.

Like instrumentalities utilized by other countries, AIT will offer commercial and travel facilitation services. But AIT will also operate a Trade Center in Taipei and Cultural Centers in both Taipei and Kaohsiung. The cultural exchange program which AIT will carry out is also much broader than that carried on by other countries in Taiwan.

APPENDIX 3

QUESTIONS ON NUCLEAR SUPPLY AND SAFEGUARDS SUBMITTED BY CHAIRMAN CLEMENT J. ZABLOCKI, AND DEPARTMENT OF STATE RESPONSES

1. In 1972, the IAEA voted to expel Taiwan. Since that date, inspection of Taiwan's facilities by the IAEA has nonetheless been maintained by means of a special arrangement worked out by the U. S., Taiwan, and the IAEA. Can this arrangement be maintained?

On September 21, 1964, the U. S., the Republic of China, and the International Atomic Energy Agency (IAEA) entered into a trilateral safeguards agreement for the application of IAEA safeguards in Taiwan. This agreement was replaced by a similar trilateral safeguards agreement which entered into force on December 6, 1971. An agreement with the IAEA was also concluded by the Republic of China on October 13, 1969, for the application of safeguards to the Taiwan Research Reactor, supplied by Canada. The IAEA is continuing to apply safeguards to all nuclear materials in all peaceful nuclear activities in Taiwan pursuant to those agreements and we have no reason to believe that it will discontinue doing so.

2. In the event the IAEA does not continue its safeguarding role, will the United States exercise its fall-back option to provide directly for bilateral safeguards? If not, how do we propose to guarantee that U. S. nuclear exports will only be used for peaceful purposes?

As indicated in the answer to Question 1, we have no reason to expect that the IAEA will not continue to apply its safeguards in the nuclear activities on Taiwan. However, if the safeguards provided for in the trilateral safeguards agreement were not being applied, bilateral safeguards as provided in Article XI (B) of the Agreement for Cooperation between the U. S. and the Republic of China Concerning the Civil Uses of Atomic Energy would be reinstated. If such a situation ever arose, the U. S. has every intention of relying on its rights under the Agreement for Cooperation, including the application of bilateral safeguards, to ensure that all of the controls over the use of U. S.-origin nuclear material and equipment are preserved.

3. Is there any precedent for exporting nuclear material and technology to anything other than "a nation or group of nations" as set forth in the Atomic Energy Act?

Nuclear material, equipment and technology have been exported by the U. S. only to nations or groups of nations, as provided in the Atomic Energy Act, as amended. The only possible exception to this statement is the nuclear cooperation between the United States and the Federal Republic of Germany on behalf of Berlin, which was authorized by Section 125 of the Atomic Energy Act, as amended in a 1957 amendment.

4. As you know, U. S. nuclear transfers to other countries are made contingent upon certain carefully prescribed and highly specific guarantees relating to safeguards, assurances for peaceful use, and so forth. In the case of Taiwan, who will stand behind these guarantees and with whom will the U. S. deal in the event problems of compliance or misunderstanding arise?

In the future in matters concerning compliance with the terms and conditions contained in all U.S.-Taiwan nuclear agreements, the authorities on Taiwan will be represented by a legal instrumentality which will deal with the American Institute in Taiwan. If Taiwan were to abrogate or terminate the trilateral safeguards agreement, U. S. bilateral safeguards would be instituted. Furthermore, if the trilateral safeguards agreement were terminated prior to the expiration of the Agreement for Cooperation and the parties were to fail to agree promptly upon a resumption of Agency safeguards, either party would have the right to terminate the Cooperation Agreement. If such termination were to occur, the U. S. would have the right to require the return to the U. S. of all special nuclear material received by Taiwan pursuant to the Agreement for Cooperation.

5. Are there any urgently needed nuclear exports for Taiwan now in the pipeline or pending before the Nuclear Regulatory Commission? Can any of these be licensed in the absence of the new legislation? At what point in time will the need for these exports become critical?

Several of the pending exports to Taiwan of nuclear power reactor components and fuel are of some urgency and if they were delayed beyond April 1, this could cause a serious problem for the future electricity supply on Taiwan. It is the view of the Executive branch that these export licenses can be approved in the absence of new legislation, once the American Institute in Taiwan and the counterpart legal entity in Taiwan have been created. The President has made it clear that Taiwan is to be considered a nation within the meaning of the Atomic Energy Act, as amended, and the authorities on Taiwan have stated their intention to continue in force all agreements with the United States, including those in the nuclear area.

6. Is the withdrawal of U. S. security guarantees for Taiwan likely to increase significantly the internal pressures in favor of a nuclear weapons option?

In our view, the changing U. S. relationship with the people on Taiwan and the establishment of alternate mechanisms necessary to continue all commercial, cultural, economic and social relations with Taiwan will not significantly alter its assessment of the nuclear weapons option. Taiwan is a non-nuclear-weapons state party to the Nuclear Non-Proliferation Treaty and therefore has undertaken not to manufacture or otherwise acquire nuclear explosive devices. Furthermore, the authorities on Taiwan are fully aware that under Section 307 (1) (D) of the Nuclear Non-Proliferation Act of 1978, "engaging in activities having direct significance for the manufacture or acquisition of nuclear explosive devices" could lead to a termination of all future exports of nuclear materials and equipment from the United States to Taiwan.

7. How dependent is Taiwan today on nuclear power and how is dependency likely to change or increase over the next ten years?

Taiwan has one nuclear power reactor in operation (manufactured by G.E.) which supplies about 9% of the electrical load in Taiwan. Another reactor is undergoing power testing (also G.E.) and two more are under construction (also G.E.). There are an additional two reactors for which contracts have been let (Westinghouse). When these reactors are all in operation (planned for 1985), they will supply more than 40% of Taiwan's average electrical load.

8. As of today what is the status of existing U.S.-Taiwan nuclear Agreement for Cooperation? Has it in fact terminated? Is it to be formally upgraded, as are all of our other nuclear agreements, in accordance with the provisions contained in the Nuclear Non-Proliferation Act of 1978. If not, in what specific ways will the agreement be deficient?

The U. S.-Taiwan nuclear Agreement for Cooperation in the Civil Uses of Atomic Energy was first entered into on July 18, 1955. Amendments to the agreement were concluded on December 8, 1958, June 11, 1960, May 31, 1962, June 8, 1964, August 25, 1966, and April 4, 1972. Under its terms, this agreement is to remain in force until April 4, 2014. As part of the overall effort of the Executive branch to renegotiate existing agreements for Cooperation in order to incorporate all of the requirements contained in Section 401 of the Nuclear Non-Proliferation Act of 1978, the U. S. plans to renegotiate the existing U. S.-Taiwan nuclear Agreement for Cooperation.

APPENDIX 4

LETTER TO CHAIRMAN CLEMENT J. ZABLOCKI FROM THE NUCLEAR REGULATORY COMMISSION, IN RESPONSE TO QUESTIONS SUBMITTED

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

February 15, 1979

The Honorable Clement Zablocki
Chairman, Committee on International
Relations
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in response to five questions you have posed to the Commission concerning continued relations between the United States and Taiwan. I should stress, at the outset, that the Commission has not met to develop its collegial position on these questions. The Commission is continuing to develop information on the U.S. policy regarding Taiwan, as well as closely following the consideration of the Administration's legislative proposals in the Congress. When the picture has clarified somewhat, the Commission intends to meet to arrive at a collegial position on these complex and difficult issues. Therefore, the responses in this letter reflect the views of the NRC's Office of the General Counsel. With that understanding, the following are our initial answers to your questions:

1. What criteria do you intend to use in order to determine whether the institute established by the people on Taiwan has sufficient legal authority and stature to guarantee the enforceability of our important nuclear related assurances and guarantees?

The Nuclear Regulatory Commission has not currently developed formal criteria with which to assess the character of the entity to be established by Taiwan for conducting future relations with the United States. The Commission has not been previously called upon, in its licensing of U.S. nuclear exports, to consider the nature of assurances or commitments from an entity which the United States does not recognize as possessing a governmental character. An important element in the Commission's assessment would be how this entity is regarded by the United States Government -- or more specifically, how it would be regarded by

the political branches of the federal government responsible for the development and implementation of the nation's foreign policy; namely, the Congress and the Executive Branch.

2. If the institute established by the people on Taiwan does not turn out to have adequate capability for enforcing nuclear guarantees -- or at least for enforcing them in a way that is truly timely and effective -- would the NRC recommend the establishment of some kind of special channel that could substitute for or augment the institute in the area of nuclear cooperation?

Our view is that it is particularly important that a single, clear institutional relationship be established for the continued conduct of nuclear commerce between the United States and Taiwan. Therefore, if there is any doubt about the ability of the entity to be established by Taiwan to provide or enforce the kind of safeguards and nonproliferation assurances required under U.S. law, it would be far preferable to clarify or augment this authority, rather than to establish yet another channel of communication. Multiplying the potential entities with which the U.S. government (including the NRC) must deal in the highly sensitive area of nuclear commerce could lead to uncertainty, delay and ambiguity in an area where clarity, expedition and precision are essential.

3. Do you believe that the President has the authority under H.R. 1614 to establish some such special arrangement?

Leaving aside the issue of whether a "special channel or arrangement" would be desirable for enforcing nuclear guarantees, as presently drafted, H.R. 1614 does not contain a specific provision which clearly recognizes Presidential authority for such an arrangement. However, this is not to suggest that the President may not possess independent constitutional or statutory authority to make such arrangements. This is the kind of broader legal issue on which the views of the Department of Justice would be particularly valuable.

4. Is the bill H.R. 1614 drafted in such a way as to enable the Commission to find that Taiwan meets the "nationhood" requirement set forth in Section 123 of the Atomic Energy Act?

Sections 102 and 103 of H.R. 1614, and the legislative history provided by the Section-by-Section analysis which explains the meaning of those sections, provide a sound legal basis for determining that the "nationhood" requirement in Section 123 of the Atomic Energy Act is met with respect to Taiwan. As such, enactment of those sections would be a valuable clarification of U.S. domestic laws.

5. Should the Congress not pass this or comparable legislation, would the Commission be able to find that the "nationhood" requirement was nonetheless satisfied as a result of the President's original executive order?

The Office of the General Counsel has taken the position, in a memorandum submitted to the Commission on January 30, 1979 that we are not able to advise, on the basis of available information, that the President's memorandum of December 30 provides a sufficient legal basis for the finding that Taiwan meets the "nationhood" requirement. Specifically, the OGC memorandum stated:

"The Commission's task of determining whether Taiwan is a nation for purposes of the Agreement for Cooperation requirement would be simplified if Congress were to enact legislation codifying the President's view. However, in the absence of such legislation, the Commission must attempt to resolve the conceptual difficulties described above and to determine whether the Presidential interpretation provides a firm legal basis for its export licensing activities regarding Taiwan.

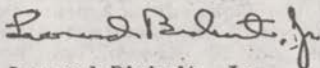
"Our conclusion is that we cannot say, on the basis of information presently available to us, that it does."

The OGC memorandum noted two caveats about this conclusion. The first related to the fact that Taiwan may possess nationhood status by virtue of the "objectivist" theory of statehood under international law. Second, the President's authority in the area of foreign policy may argue

for Commission deference to his views on the nationhood requirement. However, after weighing the competing considerations, it was nonetheless concluded that the legal case was not clear. At least it did not possess the kind of clarity the Commission typically demands in the sensitive area of nuclear exports.

We hope these answers have been responsive to the Committee's concerns. If you have further questions, please do not hesitate to get in touch with me.

Sincerely,



Leonard Bickwit, Jr.
General Counsel

cc: The Honorable William S. Broomfield

APPENDIX 5

LETTER, STATEMENT, AND RESOLUTION SUBMITTED BY HON. ROBERT McCLORY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C. February 16, 1979.

HON. CLEMENT J. ZABLOCKI,
Chairman, House Foreign Affairs Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: My interest in maintaining substantial ties with Taiwan are expressed succinctly in H. Res. 108, introduced on February 8. I am enclosing a copy of this resolution with a request to you and your colleagues on the Committee to recommend legislation which will enable our nation to continue normal trade, cultural and travel relations with the people of Taiwan—as has been the case consistently for the past more than thirty years.

My close observations—both from personal visits to Taiwan and through extensive study of the government and social and economic systems on Taiwan—convince me that this nation of more than 17 million people is representative of the very best in terms of an orderly and progressive society in the world today.

In addition to the resolution which I am enclosing, you will find a statement which I presented on the Floor of the House. I am hopeful that you will be able to include this letter and statement, as well as the resolution, as part of the record of your proceedings—and that the Committee will adopt recommendations consistent with the views which I have expressed here.

Sincerely yours,

ROBERT McCLORY, *Member of Congress.*

Enclosures.

[H. Res. 108, 96th Cong., 1st sess.]

RESOLUTION To encourage cordial relations with Taiwan

Whereas the United States of America and the Republic of China and their respective peoples have enjoyed a relationship of friendship for three decades;

Whereas the United States of America and the Republic of China have been bound together by a Mutual Defense Treaty since March 2, 1955;

Whereas the President unilaterally invoked the termination clause of the Mutual Defense Treaty without prior consultation with the Senate;

Whereas the President in his negotiations with representatives of the People's Republic of China failed to receive assurances for the future safety and well-being of the government and people of Taiwan;

Whereas the President failed to provide for future relations between the United States and the Republic of China in political, economic, cultural, and social fields: Now, therefore, it be

Resolved, That the United States of America acknowledges and reiterates its long-standing policy of friendship toward the government and people of Taiwan; and further

Resolved, That the United States must take steps promptly to assure the security of Taiwan, including a provision under which the United States will supply weapons necessary to meet the defense needs of Taiwan; and be it further

Resolved, That the United States will establish an official organization to facilitate the future relations between the United States and the Republic of China in political, economic, cultural, and social fields.

[From Congressional Record, Thursday, Feb. 8, 1979]

STRONG TIES WITH TAIWAN SHOULD BE ESTABLISHED BY CONGRESS

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, today I am introducing a resolution urging the United States to assure our friends on Taiwan that they have not been abandoned and that it is the intention of the United States to continue on a normal basis our political, economic, cultural, social, and trade relations with their country.

Mr. Speaker, for more than three decades we have shared a close, friendly relationship with these proud people. We cannot at this time turn our backs on one of our most faithful allies. We must continue to offer to the people of Taiwan our assistance in defending their country and assuring that they remain a free people.

Mr. Speaker, last week I, along with the majority of the Members of this body, had an occasion to meet with Vice Premier Teng Hsiao-Ping of the People's Republic of China; and, although I feel it is time for our two great nations to resume normal relations, I do not feel we can do this without first being assured of a secure future for Taiwan.

One of the biggest roadblocks to accomplishing this goal appears to be resolving the question of whether Americans may deal directly with officials and private individuals in Taiwan or only through the official sanction of the Communist People's Republic of China.

Mr. Speaker, I urge the other Members of this body to join me by cosponsoring this legislation which would give our pledge of continued support of political, economic, cultural, social, and trade relations with this great and friendly nation.

APPENDIX 6

STATEMENT OF JOHN M. CAREY, NATIONAL COMMANDER, THE AMERICAN LEGION

Mr. Chairman and Members of the Committee:

The American Legion's position regarding the People's Republic of China (Peking) and the Republic of China (Taiwan) has been developed over the years on one basic premise--U.S. policy should be based on what best serves our national interest. This, in part, is accomplished by remaining loyal to friendly, democratic governments. More specifically, the Republic of China (Taiwan) deserves full U.S. support for its continuing political independence, economic prosperity and military security. That is the triad of The American Legion's position as mandated by our 1978 National Convention.

We look at Taiwan as a symbol of nationhood where, during the past 20 years, a democratic government has been installed. Economic progress has been based on sound fiscal management and the productivity of the people. Today the military security of Taiwan has been maintained both because the people of that island have the will to defend their freedom and because they had assurances from the United States that their security was an integral part of our commitment to the stability of the Far East.

Taiwan's strategic importance in the Western Pacific is obvious when one considers that Taiwan is a central link in the island chain beginning with the Aleutians in the North and running south through Japan and nearby Korea, Okinawa and the Philippines. Taiwan, in unfriendly hands, would pose a serious threat to freedom's perimeter in the Western Pacific.

As the Soviet Union expands its areas of interest in Asian waters, Taiwan represents a logical naval and air facility, not to mention its technological potential to the developing nations. Taiwan is a strategic asset of first rank, providing valuable communications facilities to the United States in the Far East. Without these communications facilities we will, as appears to be the case in Iran, be forced to depend on satellite communications. Moreover, Taiwan is blessed with excellent anchorages and shipbuilding repair facilities as well as two excellent airfields. The United States found these airfields and harbors most helpful as staging areas during the recent war in Southeast Asia. Taiwan's harbors are particularly suitable as a base for nuclear submarine operations, and the United States is not the only power operating nuclear submarines in that area at this time. The Republic of China provided the United States with vital base and repair facilities during the long struggle in Vietnam.

Needless to say, the United States has not always found allies ready and willing to cooperate under such circumstances. The Republic of China is a proven ally and The American Legion sees no necessity for renegeing on our commitment to Taiwan in order to prove our trustworthiness and reliability to Mainland China. In fact, such a willful abrogation of existing treaty promises could easily be interpreted by friend and potential foe as "will of the wisp" diplomacy. To say the least, Taiwan's treatment at the hands of the U. S. in the process of normalization with Mainland China represents a diplomatic blunder of immense proportions.

I visited Taiwan recently as did the Chairman of The American Legion's Foreign Relations Commission and while there we were briefed on Taiwan's military capability to deter an amphibious assault from Mainland China. While Vice Premier Teng has been somewhat ambivalent on whether or not military pressure would be used to bring about China's unification, the hard facts are that Taiwan does not have sufficient aircraft or ships to guarantee its own security. Indeed, it seems doubtful if Taiwan could defeat a large-scaled seaborne invasion or an airlifted assault from the mainland. To be sure, such an attack would be costly, and beyond Mainland China's current military capabilities; but Taiwan's defense is based largely on a one shot strategy. Taiwan has a total force of 222 aircraft and 111 ships. These forces could be awesomely destructive for perhaps 3 days or so, but it seems doubtful that they could hold off a carefully planned and prolonged offensive from mainland forces armed with an unlimited supply of junks, small arms and manpower. Our U.S. forces in Korea found unlimited manpower to be a decisive factor in the early 1950's despite U.S. superiority in weapons, training and technology.

When we combine the limited military power of Taiwan with the continuing reduction of U.S. armed forces in the Far East we see the development of a situation that might tempt an aggressive superpower. The American Legion seriously questions the wisdom of withdrawing all U.S. military forces on Taiwan at this time. These forces, for a minimum investment, have been a stabilizing influence, a symbol of U.S. purpose and strength. They have been a force for peace in the Far East.

Now we come to the economic side of the Taiwan issue. Two-way trade with Taiwan has been steadily growing and in 1978 it exceeded \$6.0 billion, ranking among the top ten trading partners of the United States. As recently as last year, Taiwan sent a delegation to the United States to conclude purchase agreements for agriculture and other commodities totalling some \$269.0 million. Products purchased were corn, soybeans, barley, wheat, milk-powder, tobacco, raw materials including phosphate rock, potassium chloride, and industrials including telecommunication equipment and nuclear power generating equipment--and some California wine. This is believed to be the first time that any nation enjoying a favorable trade balance with the U.S. sent a delegation to our shores actively trying to help us improve our own economic conditions.

What does Mainland China offer the United States in an economic sense? Some experts say that Mainland China has large oil reserves and we read that some of our oil experts are checking on these reserves, but we probably will not know anything definite for 2 or 3 years. Meanwhile, Mainland China wants to industrialize and modernize. But we must be aware of the danger that such modernization might well surpass Chinese desires before that nation's value as a trading partner is fully realized. In the short run, the United States should be able to sell durable goods and industrial equipment to Mainland China providing the P.R.C. finds satisfactory methods of payment. Such trade is of minimal benefit to the U. S. economy. There is little doubt concerning the potential value of a long term economic exchange with the mainland but its full impact is closely tied to the P.R.C.'s willingness to completely industrialize coupled with its attitude toward domestic resource protectionism. The "hoarding" of natural resources for its own use will likely increase in accordance with the higher living standards which accompany the development of an industrialized society.

In economics the future is often perceived as being now. In that regard we find that at the beginning of 1978 U.S. investments in Taiwan stood at \$516.0 million, 30% of the total foreign investment. Taiwan's foreign exchange reserves amount to some \$4.5 billion and that represents buying power now. As 100 Japanese scholars wrote President Carter in July, 1977, "more than any other part of the world, East Asia, through the success stories of Japan, the Republic of Korea and the Republic of China, demonstrates how peace and prosperity can be achieved in a free world under American leadership."

Vice Premier Teng, during his visit to the United States, has given certain assurances that Taiwan's system and institutions will be perpetuated following unification with the mainland. Trying to mix a closed society with an open, free society is like mixing oil and water. One finds its strength in diversity and the other finds its strength in conformity, uniformity and government control. Because Taiwan represents such a splendid example of the free society being successful, we say it is in the U.S.'s national interest to preserve it and help make it ever stronger, particularly when Communist propaganda says freedom is a failure and in full retreat. This message comes to us in many ways.

The least our government can do under the circumstances is maintain close government-to-government relations with Taiwan, a relationship which is sufficiently comprehensive to guarantee Taiwan's liberty, its political independence, capitalistic system of free enterprise, and military security. We believe Taiwan should have a Government Liaison Office with as much authority and scope as the office provided to Mainland China prior to normalization. This type of arrangement seems adequate, and it is the least we can do for Taiwan at this time.

As you may have gathered from my remarks, The American Legion is tremendously impressed with Taiwan's record of progress and its faith in freedom. The facts speak for themselves. We are impressed with Taiwan as a friendly partner and ally in a world that is threatened by communist expansionism. We say that Taiwan deserves America's continued support and that such support is in the best interest of both nations.

APPENDIX 7

STATEMENT OF KUO YU-HSIN, PRESIDENT OVERSEAS ALLIANCE FOR DEMOCRATIC RULE IN TAIWAN

THE PEOPLE OF TAIWAN DEMAND SELF-DETERMINATION AND INDEPENDENCE

We, the people of Taiwan, have noted with great concern and deep appreciation that the 96th Congress is determined to provide some mechanism to secure a peaceful future for the people of Taiwan. We wish to comment on the issue of security for Taiwan and state our position regarding the future of the Taiwanese people.

The future of Taiwan should be determined by the people of Taiwan alone in accordance with the principle of self-determination. Given a free chance, we will reject domination by People's Republic of China and continued dictatorship by the Kuomintang. Meanwhile, we will undeniably promote democratic institutions a la America, British or Swiss style, pursue a free, equitable economic system, seek peace with all nations, and safeguard independence—de facto and de jure—for Taiwan, our sacred homeland.

We believe that land is for people, not vice versa. We will assert once again that Taiwan is for the Taiwanese and the future of this island must be determined by us alone. The U.S.-China Communique of December 15, 1978 violates its professed principle vis-a-vis the ownership of Taiwan. The Communique states "Neither is prepared to negotiate on behalf of any third party." Why, then, both parties to this communique have negotiated on behalf of the people of Taiwan over their own land? It is totally groundless to assert that Taiwan is "part of China."

Since 1624 Taiwan has been under the colonial rule of western and eastern aliens—first ruled by the Dutch, followed by the Spanish, the Ming refugees, the Manchus, the Japanese, and since 1945, by the Chinese Nationalist occupation forces by the trust of the Allies under the General Order Number One of General MacArthur, then the Supreme Commander of the Allied Forces. Kuomintang's self-appointed legitimacy over Taiwan was totally denied by the Taiwanese in 1947, when the Taiwanese throughout the island rose en masse to protest the KMT's occupation forces. Chiang Kai-shek responded by massacring twenty thousands of Taiwanese elite. Today, Taiwan has clearly and unequivocally constituted a separate political entity, unique by its own, through the long process of historical, geographical, economic, political, and cultural developments. On the other hand, the People's Republic of China has never ruled Taiwan and is totally foreign to the people on Taiwan.

Since 1949, the Taiwanese people have had to live with two mutually reinforcing political evils—Kuomintang's unending dictatorship and PRC's threat of forced annexation in the name of Chinese unification. In spite of this fact, we Taiwanese have not given up hope for a future which we can control. In 1960, a coalition of liberals, including Chinese mainlanders and native Taiwanese, initiated a new party movement, which in due course was aborted by the Kuomintang. Lei Chen, a Mainlander and the organizer of the movement was imprisoned under the pretext of being a Communist sympathizer. Today, a democratic movement has become firmly rooted in the genuine wish and support of the Taiwanese populace. Given open and free elections, the non-Kuomintang political opposition could garner more than 60 percent of the popular vote, according to a survey of the sentiment of the abortive election scheduled for December 23, 1978.¹ Alarmed by the formidable popularity of the progressive forces, the KMT regime reiterated and reinforced the 30-year-old martial law and cancelled the elections. But the democratic trend inside the island is unstoppable. Undismayed

¹ See "The Election That Wasn't," The Asian Center (Dec. 31, 1978), 198 Broadway, New York, N.Y.; also Clayton Fritchey, "Taiwan: Another Intelligence Gap," the Washington Post (Feb. 3, 1979).

and unfearful of the KMT's renewed repression, the democracy-minded political opposition successfully initiated an unprecedented western-style demonstration in Taiwan to protest the arrest of Mr. Yu Teng-fa,² one of the most respected opposition leaders in Taiwan.

The best defense of the island of Taiwan must come from the people of Taiwan through a representative government and national consensus and aroused patriotism. This is currently lacking, primarily due to the popular resentment to the reactionary, repressive KMT regime. From Vietnam to Iran, there are no shortages of examples that advise against supporting reactionary, repressive regimes.

We, the people of Taiwan, welcome any resolution that will most likely foster growth of progressive forces inside Taiwan.

² See "Yu Ten fa Arrested: Victim in the Kuomintang Renewed Political Persecution in Taiwan," Press Release (Jan. 22, 1979), Overseas Alliance for Democratic Rule in Taiwan, P.O. Box 57355, Washington, D.C.

